FILE COPY

No. 733

In the Supreme Court of the United States

OCTOBER TERM, 1946

INTERSTATE NATURAL GAS COMPANY, INCORPORATED, A CORPORATION, PETITIONER

v.

FEDERAL POWER COMMISSION, LOUISIANA PUBLIC SERVICE COMMISSION, CITY OF NEW ORLEANS, LOUISIANA, AND CITY OF BATON ROUGE, LOUISIANA

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE FEDERAL POWER COMMISSION

INDEX

	Page
Opinions below	1
Jurisdiction	1
Questions presented	2
Statute involved	3
Statement	3
Summary of argument	16
Argument	19
I. The sales here involved were in interstate commerce	20
II. The sales here involved are not exempt from regulation by the Commission as "production and gathering of natural gas"	26
A. The Commission's finding that petitioner transported the gas here involved after gathering supports the Commission's jurisdiction over the sales in question	29
B. Irrespective of transportation, the sales here involved were made after the completion of gathering and, hence, the exemption is inapplicable in the circumstances of this case	33
Conclusion	46

CITATIONS

Cases:

Caminol Company v. *United States*, 41 F. Supp. 819	31
Colorado-Interstate Company v. *Federal Power Commission*, 324 U. S. 581	26
Currin v. *Wallace*, 306 U. S. 1	21, 24
Federal Trade Commission v. *Bunte Brothers*, 312 U. S. 349	23
Hartford Electric Light Company v. *Federal Power Commission*, 131 F. 2d 953, certiorari denied, 319 U. S. 741	27
Henderson Development Company v. *United Fuel Gas Corporation*, 3 S. E. 2d 217	31
Illinois Natural Gas Company v. *Central Illinois Public Service Co.*, 314 U. S. 498	20, 22
Interstate Natural Gas Co. v. *Louisiana Public Service Commission*, 33 F. Supp. 50, 34 F. Supp. 980	19, 25
In the Matter of Billings Company, Ohio Oil Company, and *Mountain Fuel Supply Company*, 2 F. P. C. 228, 35 P. U. R. (N. S.) 321	41
In the Matter of Columbian Fuel Corporation, 2 F. P. C. 200, 35 P. U. R. (N. S.) 3	34, 40, 41
Jersey Central Power & Light Company v. *Federal Power Commission*, 319 U. S. 61	20

740724—47——1

Cases—Continued	Page
McLeod v. *Threlkeld*, 319 U. S. 491	22
Missouri v. *Kansas Natural Gas Company*, 265 U. S. 298	23, 36
Mulford v. *Smith*, 307 U. S. 38	21
Peoples Natural Gas Company v. *Federal Power Commission*, 2 F. P. C. 1017, 127 F. 2d 153, certiorari denied, 316 U. S. 700	22, 23, 42
Public Utilities Commission v. *Attleboro Steam & Electric Company*, 273 U. S. 83	23, 36, 40
Sunshine Anthracite Coal Company v. *Adkins*, 310 U. S. 381	21
Statutes:	
Louisiana Acts 1944, No. 132, § 1	31
Natural Gas Act of 1938, C. 556, 52 Stat. 821, 15 U. S. C. 717 et seq:	
Sec. 1	17
Sec. 2	4
Sec. 5	3
Sec. 19	30
Miscellaneous:	
Congressional Record, Vol. 81, pp. 9312, 9313	38
Hearings before House Committee on Interstate and Foreign Commerce on H. R. 11662, 74th Cong., 2d Sess.	34
Hearings before House Committee on Interstate and Foreign Commerce on H. R. 4008, 75th Cong., 1st Sess.	34
House Report, No. 709, 75th Cong., 1st Sess.	20, 22, 37, 38
H. R. 4008, 75th Cong., 1st Sess.	36
H. R. 5711, 75th Cong., 1st Sess.	36
H. R. 6586, 75th Cong., 1st Sess.	36
S. 1919, 75th Cong., 1st Sess.	36
Senate Report, No. 1162, 75th Cong., 1st Sess.	37
Utility Corporations, Federal Trade Commission Report, 70th Cong., 1st Sess., S. Doc. 92, Part 84-A	34
Webster's New International Dictionary, 2d Ed. (1939)	30, 31

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OPINIONS BELOW

The opinion of the Circuit Court of Appeals (R. II, 910–927) is reported at 156 F. 2d 949. The opinion and order of the Federal Power Commission (R. I, 55–86) are reported in 48 P. U. R. (N. S.) 267.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered August 3, 1946 (R. II, 928). A peti-

tion for rehearing was denied October 1, 1946 (R. II, 948). The petition for a writ of certiorari which was filed November 30, 1946, was first denied on January 6, 1947, but later granted on February 10, 1947, limited however to questions numbered 1, 2 and 3 of the petition (R. II, 950). Jurisdiction of this Court rests upon Section 19 (b) of the Natural Gas Act, and Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

Petitioner, a natural-gas company subject to the Natural Gas Act, makes sales of natural gas for resale to interstate pipeline companies for transportation and ultimate consumption outside the state of origin. After such gas, which is both produced and purchased by petitioner, has been commingled, and after physical gathering has been completed, the gas is transported in trunk pipelines by the gas company to the point of delivery to the purchasers.[1]

The questions are:

(1) Whether such sales are "sales in interstate commerce" within the meaning of Sections 1 and 2 (7) of the Natural Gas Act.

[1] The questions stated in the petition for certiorari do not correctly state the issues, since they assume that the natural gas sold is delivered from the field gathering system and sold to the pipeline companies before interstate commerce begins, and omit to state that the gas is transported in interstate commerce by petitioner after gathering and before sale to the pipeline companies.

(2) Whether such sales are exempt from the jurisdiction of the Federal Power Commission by reason of the language of Section 1 (b) of the Natural Gas Act to the effect that its provisions shall not apply to the production or gathering of natural gas.

STATUTE INVOLVED

The pertinent provisions of the Natural Gas Act (Act of June 21, 1938, c. 556, 52 Stat. 821, 15 U. S. C. 717 *et seq.*) may be found in a pamphlet copy of the Act submitted with this brief.

STATEMENT

The proceedings before the Commission arose out of a complaint filed under Section 5 (a) of the Natural Gas Act by the Louisiana Public Service Commission alleging that the rates charged by petitioner for natural gas sold in interstate commerce for resale for ultimate public consumption were unjust and unreasonable and requesting an investigation and the fixing of fair and reasonable rates. Petitioner filed an answer to this complaint denying the jurisdiction of the Commission; the answer alleged, *inter alia*, that there was pending undecided before the United States District Court for the Eastern District of Louisiana a suit filed by petitioner to enjoin the Louisiana Public Service Commission from enforcing an order subjecting petitioner's rates to its jurisdiction, wherein peti-

tioner contended that they were rates for sales in interstate commerce not subject to State regulation (R. I, 36–43). The Commission on December 5, 1939, on its own motion, instituted a general investigation of all interstate wholesale rates and charges of petitioner (R. I, 50–52). The complaint proceeding and the general investigation were consolidated (R. I, 52). The City of New Orleans and the City of Baton Rouge, Louisiana, participated as interveners.

After hearing, the Commission, on April 27, 1943, issued its opinion and order (R. I, 57–86, 48 P. U. R. (N. S.) 267, 3 F. P. C. 416) finding (1) that petitioner was a natural-gas company within the meaning of Section 2 (6) of the Natural Gas Act (R. I, 58, 82), (2) that its sales of natural gas to Mississippi River Fuel Corporation (hereinafter referred to as Mississippi) at the latter's compressor station near Perryville, Louisiana (R. I, 82), to Southern Natural Gas Company at the latter's compressor station, also near Perryville, Louisiana (R. I, 82), and to United Gas Pipe Line Company for the account of Memphis Natural Gas Company at Memphis' compressor station near Guthrie, Louisiana (R. I, 83), were sales of natural gas in interstate commerce for resale for ultimate public consumption for domestic, commercial, and other uses within the meaning of Section 1 (b) of the Natural Gas Act, (3) that petitioner trans-

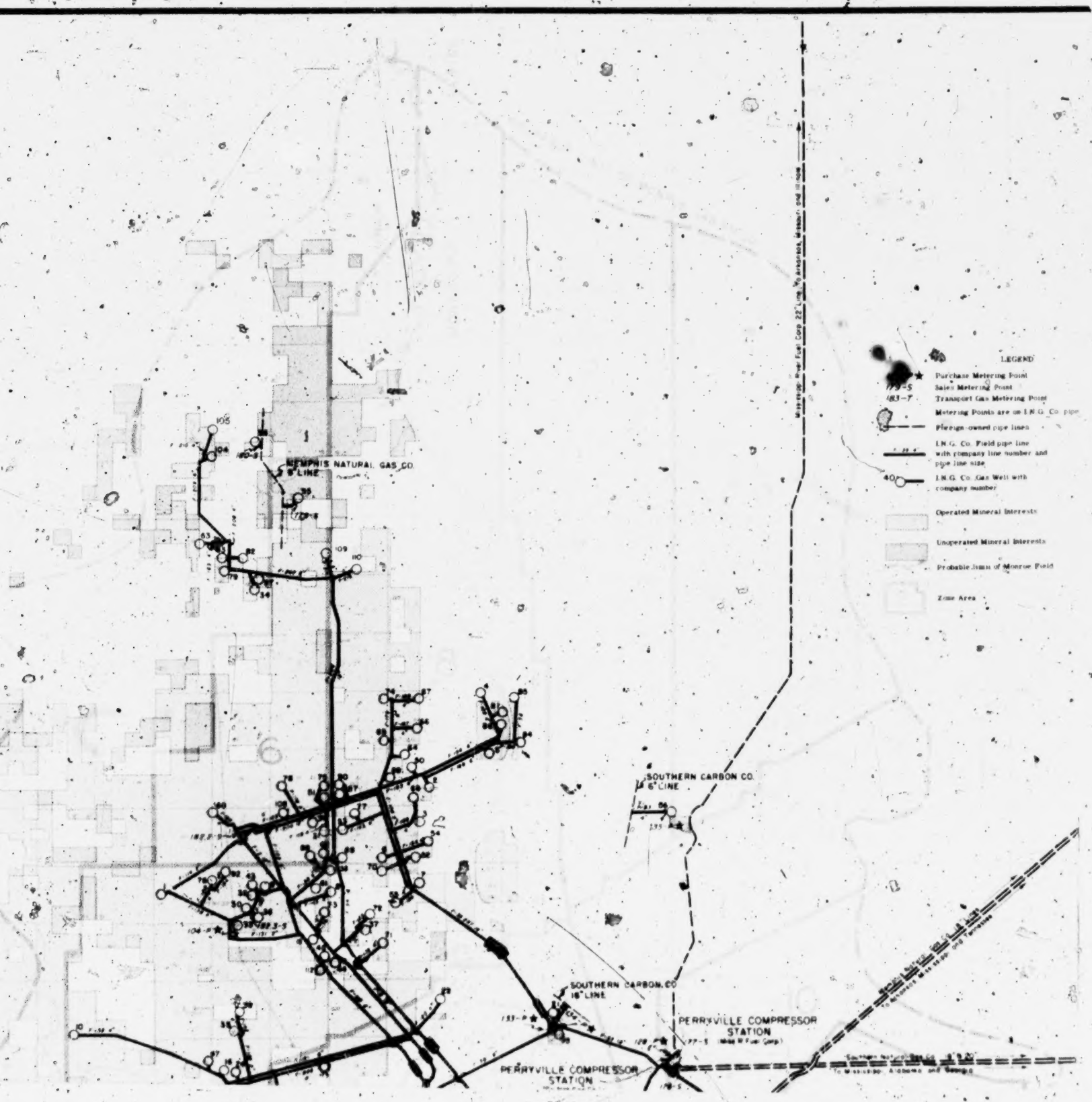
ported commingled gas, which had first been gathered, to the points of sale and delivery to the aforesaid purchasing pipeline companies (R. I, 60, 82), and (4) that its interstate wholesale rates were excessive and should be reduced on and after May 15, 1943, by the amount of $1,100,345 as applied to the volume of gas sold in the test year 1941 (R. I, 80, 86).

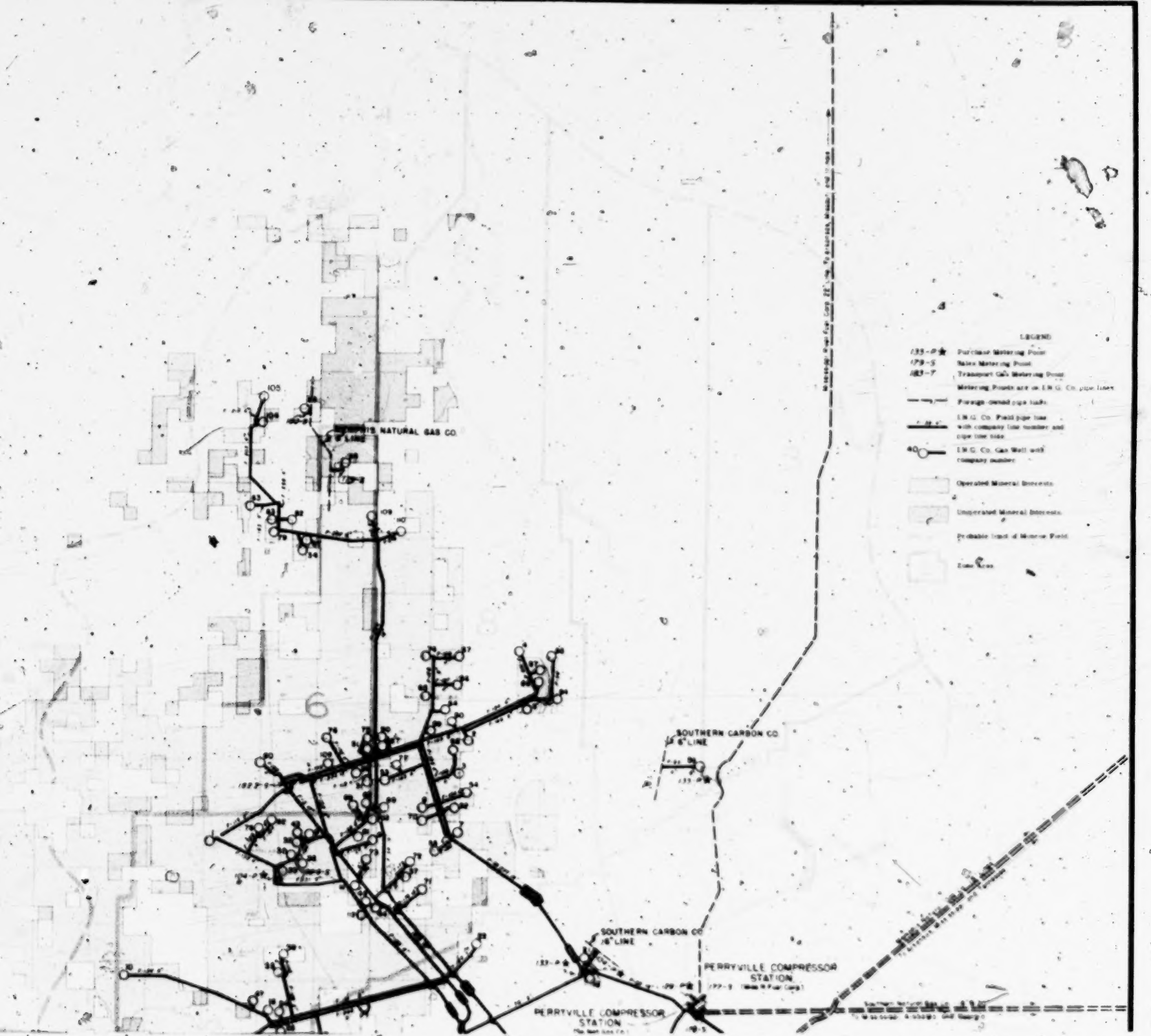
Petitioner appealed so much of the order of the Commission reducing rates as pertained to the sales in interstate commerce for resale made to Mississippi (R. I, 82), Southern Natural (R. I, 82), and United Gas (R. I, 83), which the Commission had held excessive in the amount of $596,320 per year. The issues in this proceeding involve petitioner's sales of gas to the three companies above named and, by stipulation and the order granting certiorari, are limited to the jurisdictional questions above stated.

On May 13, 1943, petitioner applied for rehearing of the Commission's order (R. I, 93–100) and, on June 9, 1943, the petition for rehearing was denied (R. I, 100–102).

The Circuit Court of Appeals for the Fifth Circuit on August 3, 1946, affirmed the Commission's order (R. II, 910–928), Judge Waller dissenting.[2] Petitions for rehearing filed by petitioner and by

[2] By order of the Circuit Court of Appeals dated June 14, 1943 (R. I, 20–22), the Commission's order of April 27, 1943, reducing rates, as modified, was stayed pending decision and the revenues collected by Interstate in excess of the prescribed rates impounded.


LEGEND
Purchase Metering Point
Sales Metering Point
Transport Gas Metering Point
Metering Points are on I.N.G. Co. pipe
Foreign-owned pipe lines
I.N.G. Co. Field pipe line with company line number and pipe line size
I.N.G. Co. Gas Well with company number
Operated Mineral Interests
Unoperated Mineral Interests
Probable limits of Monroe Field
Zone Area
MEMPHIS NATURAL GAS CO. 8" LINE
SOUTHERN CARBON CO. 6" LINE
SOUTHERN CARBON CO. 16" LINE
PERRYVILLE COMPRESSOR STATION
PERRYVILLE COMPRESSOR STATION


LEGEND
Purchase Metering Point
Sales Metering Point
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E.N.G. Co. Field pipe line with company line number and pipe line size
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Operated Mineral Interests
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Probable Limit of Monroe Field
MEMPHIS NATURAL GAS CO.
SOUTHERN CARBON CO. 6" LINE
SOUTHERN CARBON CO. 6" LINE
PERRYVILLE COMPRESSOR STATION
PERRYVILLE COMPRESSOR STATION

TO ST LOUIS, MO

F-33

F-1A

MISSISSIPPI RIVER FUEL CORP

F-33B

F-33A

SOUTHERN NATURAL GAS COMPANY

TO ATLANTA, GA

T-9

TO BATON ROUGE

TO MEMPHIS, TENN

F-1

MEMPHIS NATURAL GAS COMPANY

F-43

Line F-33, transports gas which has been gathered by Interstate from a group of wells in the northern high pressure area of the field.

Southern Natural Gas Company Perryville Compressor Station. Interstate sells gas at this point to Southern Natural.

Line F-43, transports gas which has been gathered by Interstate from a group of wells in the western low and intermediate pressure area of the field.

Independent Natural Gas Association, *amicus curiae* (R. II, 930, 939), supported by briefs filed on behalf of the State of Texas and certain producing interests as *amici curiae*, were denied on October 1, 1946 (R. II, 948).

The relevant facts as to petitioner's operations are as follows:

Petitioner owns and operates 110 natural gas producing wells in the Monroe Field, Louisiana, and also purchases large quantities of gas from producers in the same field after the gas has been gathered by such producers (R. I, 191, 192; R. II, 612, 613, 615, 618). In addition, petitioner purchases a small volume of gas from certain producers directly at the wellhead in the case of certain isolated wells (R. I, 191–192). The gas purchased in the test year 1941 by petitioner in the Monroe Field amounts to 22,839,985 Mcf., and the amount of gas produced by it amounts to 28,819,814 Mcf. (Ex. 49, R. II, 612, 613, 615, 618, 621, 622, 646, 651, 652; R. I, 26–32). Of the gas purchased, about 95% or 21,688,275 Mcf. was gathered by the producers before it was sold and delivered to petitioner (R. I, 191–192; Exh. 49, R. II, 601, 646). The volume of gas sold to the three pipe line companies, Mississippi, Southern Natural, and United (for account of Memphis) in 1941 was 21, 863, 278 Mcf. (R. II, 651, 827, line 7; cf. R. II, 639).

Petitioner itself transports from the field about 60% of the gas by interstate pipeline, thereby be-

coming a natural-gas company subject to the jurisdiction of the Commission independently of the transactions here involved.

The points of delivery of the purchased gas to petitioner with the amounts delivered are as follows:[3]

(1) Hope Producing Company delivered 4,262,048 Mcf. which was measured at meter points 160–P and 161–P (R. II, 612). These metering points lie west of the De Siard Compressor Station and are on an eight-inch line laid by Hope in 1940. This gas normally is delivered into F–1 (R. II, 576) although it could flow into line F–44 or through the De Siard Compressor Station into line T–1. Such gas is completely gathered before delivery to petitioner (R. I, 191–192).

(2) Southern Carbon delivered 4,304,363 Mcf. at meter point 128–P (R. II, 615). This gas was completely gathered by Southern Carbon prior to delivery to petitioner (R. I, 191–192). Meter point 128–P lies at the north end of line F–1 near the Perryville Compressor Station. The gas delivered at this point goes into the north end of the 16-inch line F–1.

(3) United Carbon Company delivered 3,327,492 Mcf. at meter point 136–P, and 5,633,879 Mcf. at meter point 137–P (R. II, 618). Meter point 136–P is at Cargas on the east side of line

[3] References are to maps Appendices A and B to this brief (Ex. 49, R. II, 608).

740724—47——2

F–1, a mile or so from the northern end. Gas does not now enter F–1 at this point (R. I, 185–186). Meter point 137–P lies some distance east of the De Siard Compressor Station and the gas delivered at that point is transported through the 12-inch line F–13 to De Siard and then via line F–2 into the compressor station or into line F–1 via F–45 or into F–44. At the present this gas normally flows into line F–1 (R. II, 575). The above deliveries of gas by United Carbon are made after the gas has been completely gathered by it (R. I, 191–192).

Of the gas produced by petitioner a very large portion of the high pressure gas is located in the northern portion of the field and is transported through line F–33 into transmission line T–9 (R. II, 574). None of this gas is sold to the three purchasing pipe lines, Mississippi, Southern Natural and United for account of Memphis. Most of the gas produced by petitioner which is sold to these three pipe line companies accordingly comes from the western and southern part of the field. It is evident from Appendices A and B that this gas first passes through a series of gathering lines and then into trunk lines such as F–59 (16″), F–3 (12″), F–51 (10″), F–4 (8″), and F–5 (6″ and 8″), before it passes into the main trunk lines F–1 and F–44.

The maps show that the gas purchased and produced by petitioner moves forward in a den-

dritic pattern from branch lines into trunk lines such as F–59, F–3, F–51, F–2, F–5, F–13, F–4 and F–33 and the main trunk lines F–1 (16") and F–44 (12") (R. II, 610).* All of the gas except that delivered by Southern Carbon at meter point 128–P comes to the premises of the De Siard Compressor Station of petitioner, passing there into petitioner's line F–1 for transportation through that line and F–33A for about 4 miles to the points of delivery to Mississippi and Southern Natural at Perryville, Louisiana, or through lines F–44 and F–43 for about 2 miles to the point of delivery to United for account of Memphis near Guthrie, Louisiana (R. I, 140–142, 474–476; R. II, 577–580, 608–609). The deliveries by Southern Carbon Company noted above at meter point 128–P near the Perryville station enter F–1 at its north end from which the gas is delivered through F–1 to Mississippi and Southern Natural.

At the De Siard station some gas is immediately transported south through Transmission line T–1—thus indicating that the gathering process is complete when the gas reaches that station (R. I, 190). Most of the gas here involved moves north

* Petitioner, at page 21 of its brief, refers to the fact that a trunk line is to a pipe line system what the main line is to a railroad, with the gathering system comparable to the spurs and sidings and the pump stations to the motive power. In view of the pattern of delivery of gas by petitioner, the analogy adopted in the petitioner's brief is particularly applicable to its operations.

from the De Siard station to the delivery points of the three purchasing pipelines.

Mississippi.—The gas purchased by Mississippi is first transported through petitioner's line F–1 and then into a branch line F–33A, located near Perryville at which point delivery of the gas at natural field pressure is made to Mississippi at the inlet side of Mississippi's meters at its compressor station. See F. P. C. Rate Schedule No. 4, Exh. 9, Tr. 1227. Mississippi then compresses the gas and further transports it through its 22-inch interstate pipeline from Perryville, Louisiana, to points of delivery and sale in Arkansas, Missouri and Illinois. See Exh. 42, pp. 18–19 (R. II, 564, 577–578); Exh. 5, (R. II, 554); Exh. 45 (R. II, 600); Exh. 49 (R. II, 608, 611, 619); (R. I, 142); and maps, Appendices A and B to this brief.

Southern Natural.—Petitioner transports the gas sold to Southern Natural through its line F–1 as above stated and then through its branch line F–33A, which is less than a mile in length, and thereupon sells and delivers the gas to Southern Natural at the outlet side of petitioner's meters at Southern Natural's Perryville Compressor Station. See F. P. C. Rate Schedule No. 24, Exh. 10, Tr. 1297. The gas is sold and delivered by petitioner at natural field pressure, Southern Natural then compresses the gas and further transports it through its interstate

pipeline from Perryville, Louisiana, to points of delivery and sale in Mississippi, Alabama and Georgia (Exh. 42, pp. 20–21, R. II, 564, 578–579; Exh. 6, R. II, 554; Exh. 45, R. II, 600; Exh. 49, pp. 5–7, R. II, 608, 611, 619; R. I. 142).

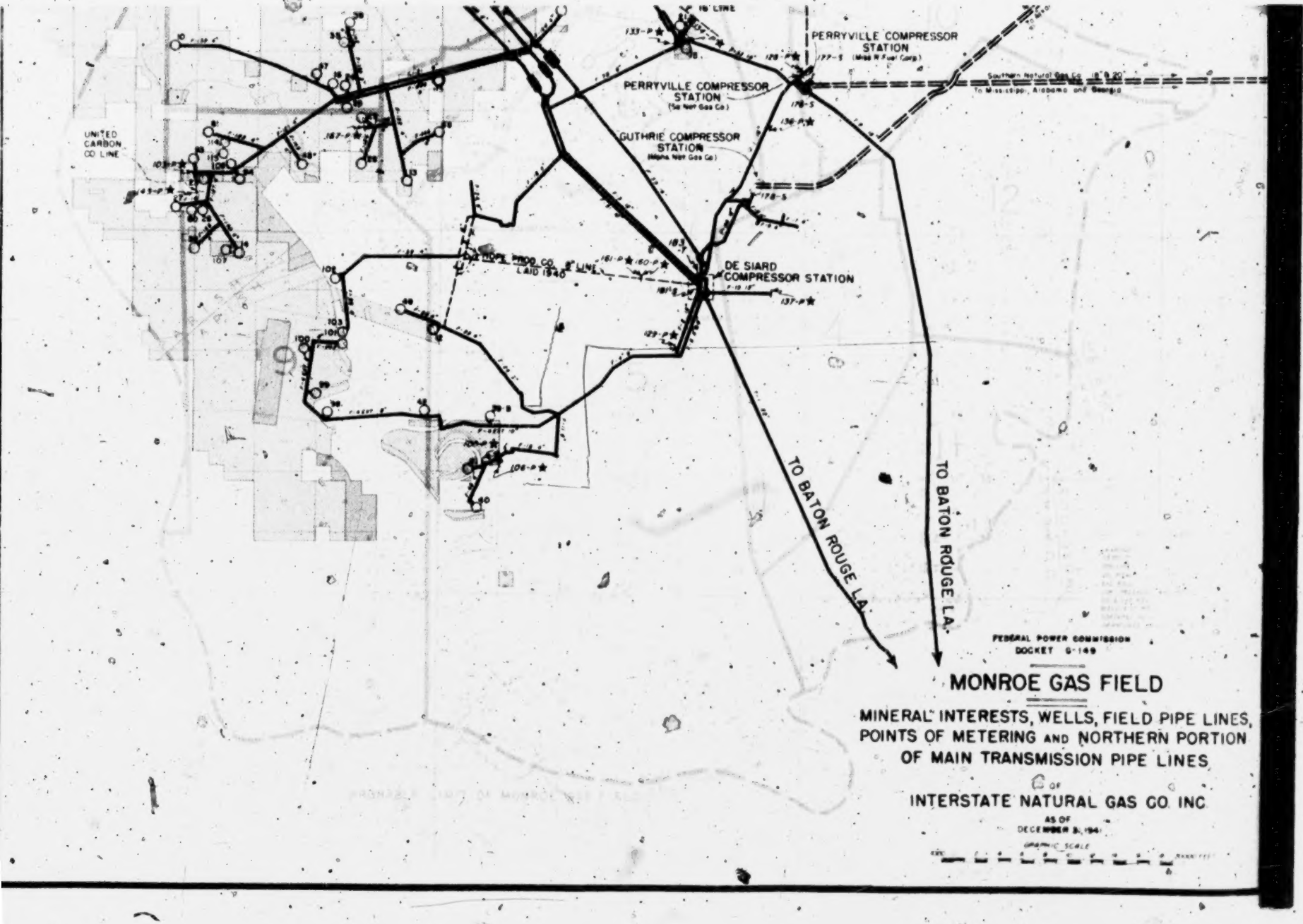
United for Memphis.—Petitioner transports the gas sold to United, for Memphis through its lines F–44 and F–1 and makes delivery of such gas at Memphis compressor station at Guthrie, Louisiana. Actual delivery of the gas is made via the short line F–43, connected with petitioner's line F–1 through line F–9 and also connected to F–44. The sale and delivery is made at the outlet side of petitioner's meters. See F. P. C. Rate Schedule No. 6, Exh. 12, Tr. 1519. Memphis thereupon compresses the gas and further transports it from Guthrie, Louisiana to points of delivery and sale along its main pipeline in Arkansas, Mississippi and Tennessee (Exh. 42, p. 22, R. II, 564, 579–580; Exh. 6, R. II, 554; Exh. 45, R. II, 600; Exh. 49, pp. 5–7, R. II, 608, 611, 619; R. I, 142).

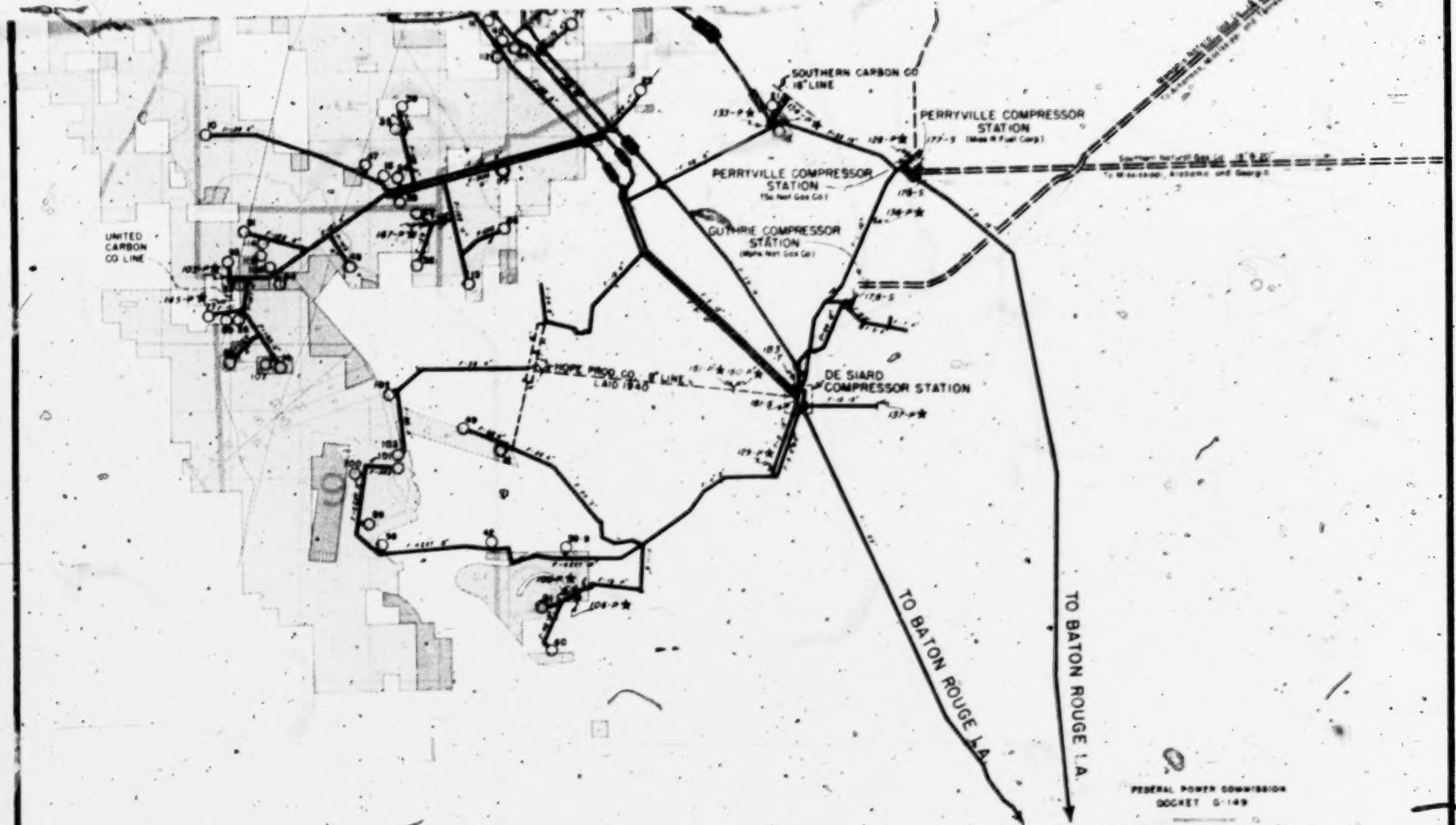
Affiliation Between Petitioner and Purchasing Pipeline Companies.—The Commission found that Mississippi was an affiliate of Interstate because Standard Oil Company (N. J.) owned 22.5% of the stock in Mississippi (R. I, 250) and 53.97% of Interstate (R. I, 254; R. II, 706, 723), and because Mr. Frank H. Lerch, Jr., a Standard Oil Company (N. J.) man (R. I, 241, 242), is presi-

dent of Interstate (R. I, 242) as well as president and director of Mississippi (R. I, 245, 247) and president of Hope Producing Co., which is 100% owned by Standard Oil (R. I, 261). He also is president of Gas Companies, Inc. (R. I, 242, 263), which is controlled by three wholly owned subsidiaries of Standard (R. I, 260). Gas Companies, Inc., looks after the services, financial, budget and kindred matters of Mississippi (R. I, 263), and the main control ledgers of Mississippi are kept in Gas Company, Inc.'s New York Office (R. I, 263). An employee of Gas Companies, Inc. is treasurer and another assistant secretary of Mississippi (R. I, 263). Gas Companies, Inc. exercises, for Standard, similar control over Interstate and all the other companies controlled by Standard (N. J. [redacted] I, 263).

United Gas Pipe Lines Co. is 100% owned by United Gas Corporation, its parent holding company, which is part of the Electric Bond & Share system (R. I, 274, 275, 424, 425). United Gas Corporation owns 47% of the stock of Mississippi and is by far the largest stockholder of that company (R. I, 425). Both United Gas companies are thereby closely affiliated with Interstate, Hope Producing, Columbian Carbon and United Carbon, which also own stock in Mississippi (R. I, 250), as well as with Mississippi itself. United Gas also owns Union Producing, one of the large producers in the field (R. I, 425; R. II, 834–836).

There is also close affiliation between Interstate, Mississippi, United, and other producing companies in the Monroe Field, which together own 77% of the acreage in the Monroe Field (R. I, 425, 446, 480) through a producers' syndicate agreement known as the Stipulation and Plan for Natural Gas Pipe Line to the St. Louis District, dated July 26, 1928, and the Supplemental Syndicate Agreement, dated December 17, 1928 (R. II, 833–846). The Stipulation states that the producers in the Monroe Field, including Standard (by which is meant Interstate and Hope), Columbian Carbon, United Carbon, Electric Bond & Share and Moody Seagraves plan a natural gas pipeline to the St. Louis district to market gas from the Monroe or Richland gas fields in Louisiana. The pipeline was to be operated by a corporation known as Mississippi Valley Gas Corporation (R. II, 834), whose requirements were to be supplied by the syndicate members in percentages roughly parallel to the percentages of investment and producing acreage owned (R. II, 834–836). The Supplemental Syndicate Agreement makes Mississippi River Fuel Corporation the pipeline company (R. II, 846), with the percentages of the total investment (R. II, 843) corresponding with the stock ownership in Mississippi (R. I, 412). Of the producing companies, Columbian Carbon has a stock interest of 15.53% in Interstate (R. I, 252, 254; R. II, 706), and Southern Carbon,


PERRYVILLE COMPRESSOR STATION
(Miss River Fuel Corp.)
PERRYVILLE COMPRESSOR STATION
(Sohio Nat Gas Co.)
GUTHRIE COMPRESSOR STATION
(Alpha Nat Gas Co.)
DE SIARD COMPRESSOR STATION
Southern Natural Gas Co. 18" & 20"
To Mississippi, Alabama and Georgia
UNITED CARBON CO. LINE
TO BATON ROUGE LA.
TO BATON ROUGE LA.
FEDERAL POWER COMMISSION
DOCKET G-149
MONROE GAS FIELD
MINERAL INTERESTS, WELLS, FIELD PIPE LINES, POINTS OF METERING AND NORTHERN PORTION OF MAIN TRANSMISSION PIPE LINES
OF
INTERSTATE NATURAL GAS CO. INC.
AS OF
DECEMBER 3, 1941
GRAPHIC SCALE



FEDERAL POWER COMMISSION
DOCKET G-149

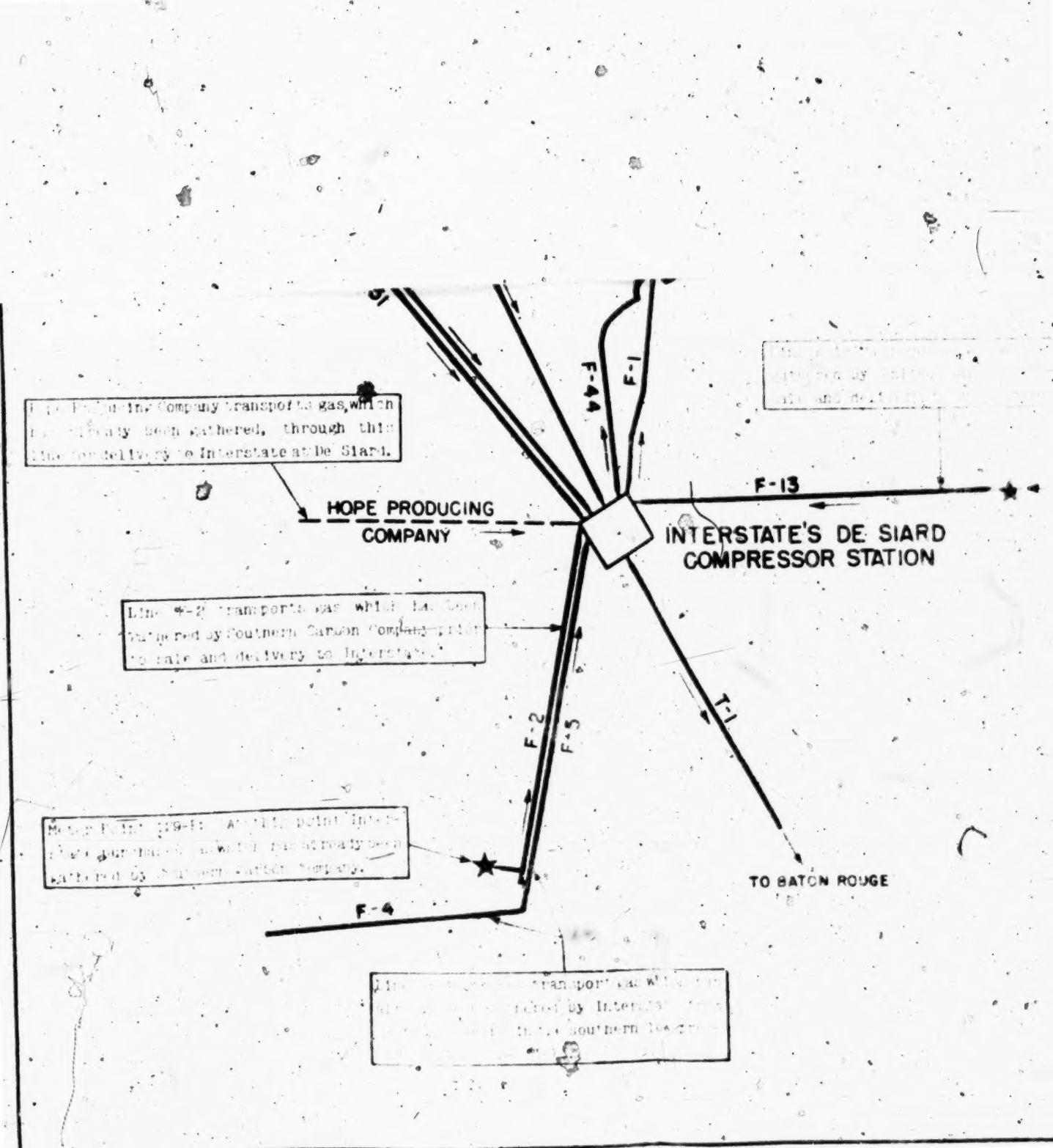
MONROE GAS FIELD

MINERAL INTERESTS, WELLS, FIELD PIPE LINES, POINTS OF METERING AND NORTHERN PORTION OF MAIN TRANSMISSION PIPE LINES

OF

INTERSTATE NATURAL GAS CO INC

AS OF


F-44
F-1
F-13
HOPE PRODUCING
COMPANY
INTERSTATE'S DE SIARD
COMPRESSOR STATION
F-2
F-3
T-1
TO BATON ROUGE
F-4

FEDERAL POWER COMMISSION

DOCKET NO. G-149

PIPE LINES OF INTERSTATE NATURAL GAS CO. IN MONROE GAS FIELD.

LEGEND

DIRECTION OF GAS FLOW

INTERSTATE NATURAL GAS CO. PIPE LINES

PIPE LINES OF OTHERS

SCALE

1/2 0 1/2 1 MILE

which sells gas to Interstate, is a subsidiary of Columbian Carbon and United Carbon (R. I, 413; R. II, 413, 563).

This affiliation was further made effective by the agreements for apportionment of field production among the controlling producers in the contracts for supply of the pipeline companies, such as the three pipeline companies whose purchases from petitioner are here in issue (R. I, 416; R. II, 794). According to Mr. Lerch, President of Interstate, Mississippi and Hope (R. I, 411), the percentages of the producers' shares in supplying Mississippi, United for account of Memphis, and Southern Natural has always followed roughly the percentages of investment and acreage owned (R. I, 415, 416, 418, 479, 480).

There is also affiliation through a dispatching pool in the Monroe Field composed of Interstate, Hope, United Gas Pipe Line (same as Union Producing), Southern Carbon, and United Carbon (R. I, 259). This pool provides a central point where information as to deliveries, etc., might be gathered and the producers would all know how they stood in total with respect to quotas, etc. (R. I, 259, 493).

The Commission's findings establish that a large portion of the gas sold by petitioner was gas purchased by it, that the "production" and "gathering" of such gas was completed at the time of such purchase by petitioner, and that the gas was thereafter transported by petitioner prior

to sale to Mississippi, Southern Natural and United; and that as to gas produced by Interstate, "production" and "gathering" were also completed prior to the sales to the three purchasing companies as there was an interval of transportation by Interstate prior to such sales. The Commission found (R. I, 60):

> A large portion of the gas, sold by Interstate in northern Louisiana to the three pipe line companies mentioned above, is purchased and received by Interstate from other companies operating in the Monroe field, which first gather and tronsport the gas to specified central delivery points for sale to Interstate. Interstate transports the gas which it buys from such companies in the Monroe field and commingles that gas with gas which it has produced and gathered in the Monroe field, and then transports this commingled gas to the points of sale and delivery in Louisiana to the Mississippi River Fuel Corporation, Southern Natural Gas Company, and United Gas Pipe Line Company for the account of Memphis Natural Gas Company. This gas transported and sold by Interstate to these three pipe line Companies continues its flow in interstate commerce and, as an established course of business well known to Interstate, is destined for resale for ultimate public consumption in Memphis, St. Louis, Birmingham, Atlanta, and other markets outside Louisiana.

The Commission further found in finding (9) that the gas "sold and delivered to the purchasers named in finding (7)," (those here involved) "moves in each instant in a constant flow from the mouths of the wells from which it is produced through pipe lines belonging to Interstate to the compressor station of the respective purchaser, and thence through said compressor stations into the pipe line of said respective purchaser and thus into and through states other than Louisiana as described in finding (8), all without interruption, and said gas is so destined from the moment of its production" (R. I, 83).

SUMMARY OF ARGUMENT

Petitioner has heretofore successfully brought suit to enjoin the State from prescribing the rates for the sales here involved on the ground that they were interstate, and this case is the second half of petitioner's program to free these sales from all regulation whatsoever by State or nation.

I

Contrary to petitioner's contention, made for the first time in its petition for rehearing in the court below, the sales here involved, although occurring in the state of origin of the gas, were in interstate commerce. These sales were for direct and immediate transportation outside of the state, and the decisions of this Court establish conclu-

sively that such sales are a part of interstate commerce. This Court has already declared "interstate commerce" in the Gas Act to have the meaning defined by the Court before the adoption of the Act, and there is nothing in the history of the Natural Gas Act suggesting that the phrase "sale in interstate commerce" was to have a narrower meaning than that given it by this Court in numerous types of situations.

II

The transactions here involved are not included within the phrase "production and gathering of natural gas," which is exempted from the Commission's jurisdiction by Section 1 (b) of the Natural Gas Act.

A. The Commission found that petitioner was engaged in transporting gas prior to the sales to the pipeline companies—that is, at least from the premises of its De Siard station and thence northerly in main trunk lines F–1 and F–44, and related lines F–43 and F–33A. The term gathering, the trade or technical meaning of which is basically the same as its usual or popular meaning, relates to the collecting of the gas from various wells and bringing it into one place. It is clear from the facts that the gathering of the gas here involved was completed when it reached the premises of petitioner's De Siard station, and even earlier as to gas purchased from other producers

who themselves had first gathered it. Hence it was transported in interstate commerce after gathering to the points of delivery to the three purchasing companies. Such transportation after gathering is clearly not exempt from the statute.

B. Irrespective of whether the transportation to the point of sales occurred after gathering, the sales themselves were made after the completion of gathering. At the point of delivery to the three pipeline companies the gathering is clearly completed. The purpose of the Natural Gas Act as shown by its legislative history was to bridge the gap created by this Court's decisions holding that the states could not regulate wholesale sales of natural gas in interstate commerce. The Commission has, however, never sought to extend its jurisdiction over the sales of natural gas made by independent producers and gatherers, but only over sales made by one otherwise a natural-gas company or where affiliation between seller and purchaser is involved or where there is transportation in interstate commerce by the seller after completion of gathering prior to the wholesale sale. Petitioner is otherwise a natural-gas company, is affiliated with a purchasing natural-gas company and transports the gas in interstate commerce prior to sale. Over such sales Congress intended there should be regulation in the national interest.

The briefs submitted on behalf of the States of Oklahoma and Texas indicate that these states are

more concerned about what they fear the Commission might do than when it has done. The contention that the decision below repeals state statutes and stifles the power of the states to conserve their oil and gas resources is clearly unfounded since the Commission does not claim authority to set the maximum price at which independent producers in these states may sell their natural gas. This the Commission has tried to make clear in various official statements it has issued.

ARGUMENT

The Natural Gas Act applies to the "sale in interstate commerce of natural gas for resale for ultimate public consumption" but not "to the production or gathering of natural gas." Section 1 (b). Petitioners here contend (1) that the sales in question are not sales in interstate commerce within the meaning of the Gas Act, and (2) that the sales are exempt from the Act as part of production and gathering.

It is to be noted preliminarily that this case is the second half of petitioner's program to free the sales here involved from all regulation whatsoever by State or Nation. Petitioner had heretofore successfully brought suit to enjoin Louisiana from prescribing the rates for such sales.[5] Petitioner's contention in that case was that the

[5] *Interstate Natural Gas Co. v. Louisiana Pub. Serv. Comm.*, 34 F. Supp. 980 (E. D. La.). See pp. 24–26, *infra*.

sales were *interstate* and beyond the jurisdiction of the State of Louisiana. This case thus exemplifies precisely the hiatus in regulatory power which the Natural Gas Act was intended to fill. (See H. Rept. No. 709, 75th Cong., pp. 1–3, quoted in *Illinois Gas Co.* v. *Central Illinois Public Service Co.*, 314 U. S. 498, 506–07).

I

THE SALES HERE INVOLVED WERE IN INTERSTATE COMMERCE

Although petitioner conceded before the Commission (R. 60) that the sales in question were in interstate commerce, it now argues the contrary.* We think that petitioner was right the first time.

It is unnecessary for present purposes to determine the precise point at which interstate commerce in gas, which flows continually from the well to its destination, begins. Cf. *Illinois Natural Gas Co.* v. *Central Illinois Pub. Serv. Co.*, 314 U. S. 498; *Jersey Central P. & L. Co.* v. *Federal Power Commission*, 319 U. S. 61. For this case is concerned only with regulation of the sales to three pipeline companies for the direct and immediate transportation outside the state. The de-

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* In the Circuit Court of Appeals petitioner did not challenge the Commission's decision on this issue prior to the filing of the petition for rehearing (R. 932). The present contention, moreover, was not urged before the Commission, and, as a matter of fact, admissions to the contrary were made. See pp. 3–4, *supra*, pp. 24–25, *infra*. Cf. section 19 (b).

cisions of this Court establish conclusively that sales to persons for immediate interstate shipment are a part of interstate commerce. *Currin* v. *Wallace*, 306 U. S. 1, 10 and cases cited; *Mulford* v. *Smith*, 307 U. S. 38, 47–48; *Sunshine Anthracite Coal Co.* v. *Adkins*, 310 U. S. 381. In the *Currin* case (p. 10) this Court stated:

> * * * So far as the sales are for shipment to other States or to foreign countries, it is idle to contend that they are not sales in interstate or foreign commerce and subject to congressional regulation. Where goods are purchased in one State for transportation to another the commerce includes the purchase quite as much as it does the transportation. *Swift & Co.* v. *United States*, 196 U. S. 375, 398, 399; *Dahnke-Walker Milling Co.* v. *Bondurant*, 257 U. S. 282, 290, 291; *Lemke* v. *Farmers Grain Co.*, 258 U. S. 50, 54; *Stafford* v. *Wallace*, 258 U. S. 495, 519; *Flanagan* v. *Federal Coal Co.*, 267 U. S. 222, 225; *Shafer* v. *Farmers Grain Co.*, 268 U. S. 189, 198; *Foster-Fountain Packing Co.* v. *Haydel*, 278 U. S. 1, 10.

Unless the phrase "sale in interstate commerce" in the Gas Act was intended to have other than its ordinary and well established meaning, there can be no question that the sales here involved are in interstate commerce. This Court has already declared that interstate commerce in the Gas Act was to have the meaning "defined by this

Court, before the adoption of the Act." *Illinois Gas Co.* v. *Central Illinois Pub. Serv. Co.*, 314 U. S. 498, 508. And although the meaning of "interstate commerce" may conceivably vary in different statutes (*McLeod* v. *Threlkeld*, 319 U. S. 491, 493), nothing in the history of the Gas Act suggests that the phrase "sale in interstate commerce" was intended to have a narrower meaning than that expression had repeatedly been given by this Court in numerous types of situations. A strong burden must rest on the party endeavoring to maintain such a proposition. On the contrary the Act was designed to provide federal regulation for sales which this Court has held to be immune from state regulation because they were sales in interstate commerce. See H. Rept. No. 709, 75th Cong., 1st Sess., pp. 1–3.

In *Peoples Natural Gas Co.* v. *Federal Power Commission*, 127 F. 2d 153 (App. D. C.), certiorari denied, 316 U. S. 700, which involved the same question as the instant case, the court stated (p. 158):

> It is true that in recent years the Court has widened its view of what "affects" interstate commerce and supports federal regulation, and also its view of what state interferences with interstate commerce are permissible in the absence of federal regulation. But it does not follow, as appellants appear to assume, that either Congress or the Court has narrowed its view of what is "in" interstate commerce.

Petitioner relies on *Federal Trade Commission* v. *Bunte Bros.*, 312 U. S. 349, for a narrow interpretation of interstate commerce. But the *Bunte Bros.* case held only that the phrase "in interstate commerce" in the Federal Trade Commission Act was not broad enough to include practices affecting but not in such commerce. It did not hold that "interstate commerce" was to be given less than its normal breadth.

The Independent Natural Gas Association of America and other *amici curiae* in their brief in support of the petition for writ of certiorari attempt to distinguish the cases relied upon by the Circuit Court of Appeals as a basis for its decision on this point, namely, *Missouri* v. *Kansas Natural Gas Co.*, 265 U. S. 298; *Public Utilities Commission* v. *Attleboro Steam & Electric Co.*, 273 U. S. 83; *Peoples Natural Gas Co.* v. *Federal Power Commission*, 127 F. 2d 153, certiorari denied, 316 U. S. 700. They claim that the sales in issue are not sales in interstate commerce because they are made wholly within one state, that the *Kansas Natural Gas Company* case is to be distinguished because the natural-gas company there was a *single* interstate enterprise and operation, that the *Attleboro* case is to be distinguished on a ground of affiliated interstate enterprise and operation, and that the *Peoples* case is likewise to be distinguished on the ground of affiliation of Peoples and the purchasing pipe line company.

Whether or not these three cases are distinguishable, the principle that sales for interstate transportation are interstate commerce is not dependent upon them—nor upon the fact of affiliation between seller and buyer. There was no affiliation in *Currin* v. *Wallace* or the other cases cited *supra,* p. 21. Moreover in this case, if affiliation were relevant, the evidence indicates that petitioner was affiliated with at least two of the three purchasing companies. See pp. 11–14, *supra.*

We have already referred to the fact that when seeking to avoid regulation by Louisiana, petitioner had urged the District Court in a prior case to hold that the sales here in issue were in interstate commerce. Its petition in that case averred "that 99⅔% of the gas sold" by it "is sold in interstate commerce, and that the other ⅓ of 1% is sold and delivered at wholesale at taps on its pipe line to local distributing companies"; "that said sales of gas so made by your petitioner are transactions in interstate commerce" and that the contracts of sale "provide for and contemplate that said gas shall be sold and delivered as a part of and in furtherance of the interstate activity of said purchasers and of petitioner; that said gas is produced by petitioner, transported, marketed and delivered in interstate commerce; that the same moves in a constant uninterrupted, and continuous flow from the mouths of the wells from which it is produced through pipe lines belonging to your petitioner to

the compressor stations, above set forth, thence without any interruption or without at any time ever coming to rest into and through the aforesaid compressor stations and through and into states other than Louisiana; that said gas is purchased by the aforesaid purchasers for the purpose of being transported out of the State of Louisiana and into and through other states, and that said gas is so destined from the moment of its production." (R. II, 849, 859.)

On the basis of these allegations the District Court had held that since almost all of petitioner's business was in interstate commerce Louisiana could not regulate it. *Interstate Natural Gas Co.* v. *Louisiana Pub. Serv. Commission,* 34 F. Supp. 980 (E. D. La.)

With respect to petitioner's change of position on this point the Circuit Court of Appeals in this case appropriately declared (R. II, 917–918):

> * * * It is conceded that Interstate is a natural gas company engaged in interstate transportation and sale, and it is further established that it, in *Interstate Natural Gas Co.* v. *Public Service Comm.,* 33 Fed. Supp. 50, 34 Fed. Supp. 980, successfully contended in the Federal Court that sales to the pipelines in question were sales in interstate commerce and beyond the reach of the State Commission. This is not to say that its success in so contending would estop it from claiming the contrary here or

that the decision it obtained there is controlling here. It is to say though that the position it took and the decision it obtained give force and color to the avowed purpose of the Natural Gas Act as House and Senate Committees stated it, and that it seems clear to us that it would be difficult to find a case falling more clearly within both the purpose and the language of the act.

II

THE SALES HERE INVOLVED ARE NOT EXEMPT FROM REGULATION BY THE COMMISSION AS "PRODUCTION AND GATHERING OF NATURAL GAS"

Even though the type of sale in issue is in interstate commerce, it would not come within the Act if it were included within the phrase "production and gathering of natural gas." The transactions here involved do not come within this exemption because they occurred after production and gathering were completed. The crucial word is "gathering," since the process of production had unquestionably been completed before the sales here in question.

This Court pointed out in *Colorado Interstate Company* v. *Federal Power Commission*, 324 U. S. 581, where a natural gas company was questioning the propriety of fixing its rates on a rate base which included its production and gathering facilities (324 U. S. at 598, 602–603):

> * * * Transportation and sale do not include production and gathering. * * *

> * * * We must read § 1 (b) in the context of the whole Act. It must be reconciled with the explicit provisions which describe the normal conventions of rate-making.
>
> That does not mean that the part of § 1 (b) which provides that the Act shall not apply "to the production or gathering of natural gas" is given no meaning. Certainly that provision precludes the Commission from any control over the activity of producing or gathering natural gas. For example, it makes plain that the Commission has no control over the drilling and spacing of wells and the like. It may put other limitations on the Commission. * * *

In *Hartford Electric Light Company* v. *Federal Power Commission*, 131 F. 2d 953, 962, certiorari denied, 319 U. S. 741, the Circuit Court of Appeals for the Second Circuit, said, of Section 201 (b) of the Federal Power Act, a clause similar to Section 1 (b):

> Regarding the "but" clause as an exception, and keeping in mind the obvious purpose of Congress, disclosed in the legislative history, to see to it that there was effective regulation of interstate wholesale sales of electric energy, we consider as pertinent the "elementary rule requiring that exceptions from a general policy which a law embodies should be strictly construed

* * *." *Spokane & Inland R. R.* v. *United States,* 241 U. S. 344, 348, 350, 36 S. Ct. 668, 671, 60 L. Ed. 1037; cf. *Piedmont & Northern Ry.* v. *I. C. C.,* 286 U. S. 299, 311, 312, 52 S. Ct. 541, 76 L. Ed. 1115; *United States* v *McElvain,* 272 U. S. 633, 639, 47 S. Ct. 219, 71 L. Ed. 451.

We note that the Natural Gas Act, U. S. C. A., Title 15 § 717 (b) provides that the Act shall apply to the "transportation" of natural gas "in interstate commerce" or to the "sale in interstate commerce of natural gas for resale"; the same sentence contains a "but" clause reading: "but *shall not apply* * * * to the local distribution of natural gas or to *the* * * * *production or gathering of natural gas.*" Yet in *The Peoples Natural Gas Co.* v. *Federal Power Commission, supra,* a company engaged in production of natural gas, but not in its interstate transportation, was held to be subject to the Act because, in the State of Pennsylvania, it sold gas to another company which transported the gas to another state for resale.

The Commission submits that the exemption from its jurisdiction of production and gathering of natural gas is here inapplicable. This is so, because, as the Commission found in its opinion, petitioner was engaged in the transportation of the gas prior to the sales here involved, and hence the gathering must necessarily have been completed prior thereto. There accordingly is no basis for the application of the exemption relied

on by petitioner. This ground alone, the Commission believes, is sufficient to support its jurisdiction over the sales here involved.

A. THE COMMISSION'S FINDING THAT PETITIONER TRANSPORTED THE GAS HERE INVOLVED AFTER GATHERING SUPPORTS THE COMMISSION'S JURISDICTION OVER THE SALES IN QUESTION

The Commission found that petitioner was engaged in transporting gas prior to the sales to the pipeline companies—that is, at least from the premises of the De Siard station and then northerly in main trunk lines F–1 and F–44, and related lines F–43 and F–33A. The Commission's opinion states (R. 60):

> A large portion of the gas, sold by Interstate in northern Louisiana to the three pipe line companies mentioned above, is purchased and received by Interstate from other companies operating in the Monroe field, which *first gather* and transport the gas to specified central delivery points for sale to Interstate. Interstate transports the gas which it buys from such companies in the Monroe field and commingles that gas with gas which it has *produced and gathered* in the Monroe field, and then transports this commingled gas to the points of sale and delivery in Louisiana to the Mississippi River Fuel Corporation, Southern Natural Gas Company, and United Gas Pipe Line Company for the account of Memphis Natural Gas Company. This gas transported and sold by Interstate to these three pipe line companies continues its flow

> in interstate commerce and, as an established course of business well known to Interstate, is destined for resale for ultimate public consumption in Memphis, St. Louis, Birmingham, Atlanta, and other markets outside Louisiana. [Italics supplied.]

In its order, directing petitioner to reduce rates, the Commission found (R. 82–83):

> (7) Interstate, as an established course of business, is engaged in the transportation, sale and delivery of natural gas purchased, produced and gathered in Monroe Field, Louisiana, to Mississippi River Fuel Corporation and Southern Natural Gas Company at a point near Perryville in the State of Louisiana, and to United Gas Pipe Line Company for the account of Memphis Natural Gas Company at a point near Guthrie in the State of Louisiana.

And it repeated the substance of this finding, that the petitioner was engaged in transporting the gas here involved after it had been gathered but prior to the sale to the purchasers in findings (8), (9) and (10) (R. 83).[7]

[7] Petitioner did not specifically allege in its Petition for Rehearing before the Commission or in its Petition for Review that the evidence supporting these findings of the Commission was not substantial. Cf. Section 19 (b). Nor has petitioner in the Circuit Court of Appeals or in this Court made any showing that these findings are not supported by substantial evidence. On the contrary, petitioner had admitted facts establishing that the findings are correct. See pages 6, 9, 22–23, 28–29 of this brief.

The term "gathering," around the meaning of which term petitioner's argument revolves, relates to the collecting of the gas from various wells and bringing it into one place. Webster's new International Dictionary, 2nd Edition (1939) so defines the word,[8] and the trade or technical meaning of the term, many versions of which petitioner sets out in its brief (pp. 15–23), is basically the same as its usual or popular meaning.[9]

In light of this meaning of gathering, it is clear that the gathering of the gas here involved was completed at least when it reached the premises of petitioner's De Siard Compressor Station, from which it was transported within the meaning of the Natural Gas Act to the points of delivery to the three purchasing companies.

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[8] Cf. *Henderson Development Co.* v. *United Fuel Gas Co.*, 3 S. E. 2d 217 (W. Va.), where the definition is quoted in the same connection. Cf. definition in Louisiana Acts 1944, No. 132, § 1.

In the Monroe Field, line F–1 (See Appendices A and B) is, as was admitted by William A. Dougherty, attorney for petitioner, "a header or reservoir." R. 467. The moment the gas enters the "header" it has certainly been "gathered."

[9] The tax cases cited by petitioner (pp. 16–19), though not in conflict with the above, are cases involving the production and gathering of crude oil which is wholly dissimilar from the producing and gathering of natural gas, since the process of gathering of the crude oil is characterized by the gathering of the crude oil into storage tanks or tank farms prior to transportation "a clear interruption of movement between the gathering and the transporting." *Caminol* v. *United States*, 41 F. Supp. 819, 821 (S. D. Calif.).

Actually, 21,688,275 Mcf. or about 95% of the total amount of gas purchased by petitioner has been completely gathered by the sellers prior to delivery to petitioner. The purchased gas, which is received at various points in the field, is transported by petitioner to De Siard, except the gas purchased from Southern Carbon at meter point 128–P.[10] See pp. 6–8, *supra*. All the gas sold to the three pipeline companies (except for that delivered by Southern Carbon at meter point 128–P) is brought to the premises of the De Siard Station before being transported to the point of delivery to the three purchasing companies. See pp. 6–11, *supra*.

Although the gathering of much of the gas would seem to have been completed prior to its arrival at that point, it is evident that gathering

[10] The only instances where the purchased gas has not already geen gathered prior to delivery to petitioner, are gas from certain isolated wells, namely, Bond 1, U. S. A. Well, Howard Well (How. Sawyer near Rocky Branch), 1 Union Carbon Company Well, Stovall, Stevenson No. 1 and Louisiana Gas Lands. Except for this gas, all the gas purchases by petitioner in the Monroe Field were of gas already gathered prior to sale and delivery to petitioner (R. I, 191–192). Included in the latter class were all the purchases made by petitioner from Southern Carbon Company, United Carbon Company and Hope Producing.

Of the gas produced by petitioner a very large portion of the high pressure gas is located in the northern portion of the field and is transported through line F–33 into transmission line T–9 (R. II, 574). None of this gas is sold to the three purchasing pipe lines, Mississippi, Southern Natural and United for account of Memphis.

has been completed at least at the De Siard Station. Indeed, petitioner has admitted (R. 190) that insofar as the gas which moves south from the De Siard Compressor Station through petitioner's T–1 line to Baton Rouge and other points of sale is concerned, the gathering of the gas is completed. No good reason appears for distinguishing the gas moving north to the points of delivery to the three purchasing companies, and for finding that the gathering of that gas has not similarly been completed at De Siard station and the transportation there begun. Consequently, the subsequent carriage of the gas through petitioner's line F–1 and F–33–A for about four miles to the points of delivery to Mississippi and Southern Natural at Perryville, Louisiana, or through lines F–44 and F–43 for about 2 miles to the point of delivery to United for account of Memphis near Guthrie, Louisiana, (R. I, 140–142, 474–476; II, 577–580, 608–609) is clearly transportation after gathering, and the finding of the Commission that there was transportation of the gas within the meaning of the Act prior to the sales is supported by ample evidence.

B. IRRESPECTIVE OF TRANSPORTATION, THE SALES HERE INVOLVED WERE MADE AFTER THE COMPLETION OF GATHERING, AND, HENCE, THE EXEMPTION IS INAPPLICABLE IN THE CIRCUMSTANCES OF THIS CASE.

Petitioner apparently concedes (Br. 44) that the function of gathering ends when interstate trunk line transportation begins, that is, at the point where petitioner delivers the gas to the

three purchasing companies. Even assuming *arguendo* that such is the present case, the Commission submits that in the circumstances of the present case it nevertheless has jurisdiction.

The Commission recognizes that the legislative history of the Act indicates that the gathering rates are intended to be exempt if the transaction is at arm's-length.[11] From this, the Commission assumes that where a sale is made at arm's-length by one who is engaged in production and gathering exclusive of transportation and is not otherwise a natural gas company, and the sale is closely connected with and a part of local gathering, it is exempt as "production and gathering of natural gas." As the Commission stated in the *Columbian Fuel Corporation* case, (2 F. P. C. 200, 207–208, 35 P. U. R. (N. S.) 3, 10):

> The companies to be subjected to regulation were conceived of as "pipe line" companies, and it was assumed that production and gathering would enter the field of regulation only to the extent that the "pipe line" companies, either directly or through affiliates, controlled the production or gathering of the gas so transported.
>
> * * * * *

[11] Hearings before House Committee on Interstate and Foreign Commerce on H. R. 11662, 74th Cong., 2 Sess., pp. 16, 42–43, 51, 53, 55, 57. Hearings before House Committee on Interstate and Foreign Commerce on H. R. 4008, 75th Cong., 1st Sess., pp. 39, 69, 70. Utility Corporations, Federal Trade Commission Report, 70th Cong., 1st Sess. Senate Doc. 92, Part 84–A, pp. 55–56, 79–80, 85–86.

> We conclude, therefore, that it was not the intention of Congress to subject to regulation under the Natural Gas Act all persons whose only sales of natural gas in interstate commerce, as in this case, are made as an incident to and immediately upon completion of such person's production and gathering of said natural gas and who are not otherwise subject to the jurisdiction of this Commission.
>
> Further experience with the administration of the Natural Gas Act may reveal that the initial sales of large quantities of natural gas which eventually flows in interstate commerce are by producing or gathering companies which, through affiliation, field agreement, or dominant position in a field, are able to maintain an unreasonable price despite the appearance of competition.

However, the Commission in the present case has exercised jurisdiction not over such local transactions made by a producer engaged exclusively in production and gathering and not otherwise a natural gas company, but over sales at points following the completion of gathering by an admitted natural gas company, which is affiliated with two of the three purchasing pipe line companies. Such sales, the Commission submits, are not within the exemption relied on by the petitioner and they are subject to the Commission's jurisdiction. At the point of delivery to the three pipe line companies the gathering is clearly completed. None of the many authorities bearing on

the meaning of gathering referred to in petitioner's brief suggests that such sales are covered by the word "gathering."

The primary purpose of the enactment of the Natural Gas Act, as shown by its legislative history, was to regulate interstate transportation and sale of natural gas in interstate commerce for resale, which, this Court had held (*Public Utilities Commission* v. *Attleboro Steam & Electric Co.*, 273 U. S. 83 (1927); *Missouri* v. *Kansas Natural Gas Co.*, 265 U. S. 298 (1923)), were not subject to state regulation; the purpose was not to regulate directly matters in the intrastate sphere, such as the conservation of natural gas, dependent upon the local regulation of production and gathering.

H. R. 6586, the bill which became the Natural Gas Act, was introduced by Representative Lea in the House on April 22, 1937,[12] and on April 28, 1937 it was committed to the Committee of the Whole House on the State of the Union and ordered to be printed. This bill contains a subsection 1 (b), identical with subsection 1 (b) in

[12] Several other bills were introduced in 1937, prior to H. R. 6586, but they are without significance as to the question of interpretation here in issue, except that H. R. 4008 was the original form of H. R. 6586. H. R. 4008, 75th Cong., 1st Sess., introduced in the House by Representative Lea, January 29, 1937; H. R. 5711, 75th Cong., 1st Sess., introduced in the House by Representative Crosser, March 17, 1937; S. 1919, 75th Cong., 1st Sess., introduced by Senator Brown in the Senate, March 17, 1937.

the Natural Gas Act, and the bill otherwise was the same as the Act finally enacted.

On April 28, 1937, the Committee on Interstate and Foreign Commerce of the House reported on H. R. 6586 (Report No. 709, 75th Cong., 1st Sess.). This report which was incorporated verbatim in the Report of the Senate Committee on Interstate Commerce, Report No. 1162, 75th Cong. 1st Sess. accompanying H. R. 6586 says (p. 3):

> In view of the importance of section 1 (b), which states the scope of the act, it seems advisable to comment on certain provisions appearing therein. It will be noted that this subsection of the bill, after affirmatively stating the matters to which the act is to apply, contains a provision specifying what the act is not to apply to, as follows:
>
> "but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas."
>
> The quoted words are not actually necessary, as the matters specified therein could not be said fairly to be covered by the language affirmatively stating the jurisdiction of the Commission, but similar language was in previous bills; and, rather than invite the contention, however unfounded, that the elimination of the negative language would broaden the scope of the act, the committee has included it in this bill. That part of the negative declaration stat-

> ing that the act shall not apply to "the local distribution of natural gas" is surplusage by reason of the fact that distribution is made only to consumers in connection with sales, and since no jurisdiction is given to the Commission to regulate sales to consumers the Commission would have no authority over distribution, whether or not local in character."[13]

The House Report, *supra*, on pages 1, 2, and 3, contains the following statements clearly showing the paramount intention was to regulate all wholesale sales of natural gas in interstate commerce not capable of regulation by the States:

> The States have, of course, for many years regulated sales of natural gas to consumers in intrastate transactions. The States have also been able to regulate sales to consumers even though such sales are in interstate commerce, such sales being considered local in character and in the absence

[13] Senator Wheeler, who was in charge of the bill in the Senate summed up the matter well in the debate in the Senate on H. R. 6586 when he said (81 Cong. Rec. 9312):

"Mr. WHEELER. It does not attempt to regulate the producers of natural gas or the distributors of natural gas; only those who sell at wholesale in interstate commerce."

Senator Wheeler further said in the same debate (81 Cong. Rec. 9313): "There is no attempt and can be no attempt under the provisions of the bill to regulate anything in the field except where it is not regulated at the present time. It applies only as to interstate commerce and only to the wholesale price of gas."

of congressional prohibition subject to State regulation. (See *Pennsylvania Gas Co.* v. *Public Service Commission* (1920), 252 U. S. 23.) There is no intention in enacting the present legislation to disturb the States in their exercise of such jurisdiction. However, in the case of sales for resale, or so-called wholesale sales, in interstate commerce (for example, sales by producing companies to distributing companies), the legal situation is different. Such transactions have been considered to be not local in character and, even in the absence of Congressional action, not subject to State regulation. (See *Missouri* v. *Kansas Gas Co.* (1924), 265 U. S. 298, and *Public Utilities Commission* v. *Attleboro Steam & Electric Co.* (1927) 273 U. S. 83.) The basic purpose of the present legislation is to occupy this field in which the Supreme Court has held that the States may not act.

* * * * * * *

* * * The bill takes no authority from State commissions, and is so drawn as to complement and in no manner usurp State regulatory authority, and contains provisions for cooperative action with State regulatory bodies.

* * * * * *

Your committee believes that this legislation is highly desirable to fill the gap in regulation that now exists by reason of the lack of authority of the State commissions.

Thus, the legislative history clearly demonstrates that Congress was seeking to bridge the gap created by the *Attleboro* case, and not to rest jurisdiction in the Commission over purely local transactions even though they may be in interstate commerce. The very language of Section 1 (b) supports this conclusion. The Commission, for example, has jurisdiction only over sales for resale in interstate commerce, not over direct industrial sales. Similarly, the local distribution of gas has been exempted from the Commission's jurisdiction.

In administering the "production and gathering of natural gas" exemption relied upon by petitioner, the Commission has recognized the distinction between sales such as those herein by a natural-gas company on the one hand, and sales such as arm's-length sales by one who is engaged in the production and gathering of natural gas exclusive of transportation. At no time has the Commission attempted to exercise jurisdiction over such arm's-length sales by such producers and gatherers. But, where the sales occur after the completion of gathering, especially where there is affiliation, by a company which is otherwise a natural-gas company, the Commission is of the opinion that such sales are not exempt from its jurisdiction.

The first case in which the jurisdictional question of production and gathering was presented was *Columbian Fuel Corporation* case, 2 F. P. C.

200, 35 P. U. R. (N. S.) 3. In that case, the company was engaged solely in production and gathering, and sold the gas so produced and gathered to a nonaffiliate. The Commission in that case held that it had no jurisdiction, recognizing:

> The companies to be subjected to regulation were conceived of as "pipe-line" companies, and it was assumed that production and gathering would enter the field of regulation only to the extent that the "pipe-line" companies, either directly or through affiliates, controlled the production or gathering of the gas so transported. [2 F. P. C. at 207; 35, P. U. R. (N. S.) at 10.]

The present case is clearly distinguishable from the *Columbian Fuel* case because the record shows that petitioner (1) admittedly is a natural-gas company, subject to the Act, (2) transports large quantities of gas which is purchased from others after such gas has been completely gathered and (3) transports both produced and purchased gas prior to the sales at wholesale which are in issue. Additionally, it should be pointed out that the gas so sold to the three pipe line companies is mainly gas which has been produced and gathered by others, sold to petitioner, and then transported by it to the points of sale.

The second case raising this question was the *Billings Gas Company* case, 2 F. P. C. 288, 35

P. U. R. (N. S.) 321. There the Commission held that the three companies involved in that proceeding were natural-gas companies within the Act. Jurisdiction over one of the companies (the Ohio Company), was asserted because it transported gas after the completion of gathering by it and, therefore, was not within the category of the *Columbian Fuel Corporation* case.

The third case was the *Peoples Natural Gas Company* v. *Federal Power Commission*, 2 F. P. C. 1017, 127 F. 2d 153 (App. D. C.), certiorari denied, 316 U. S. 700. This was a proceeding instituted by the Commission in order to determine whether the company was a natural-gas company under the Act and if its wholesale rates were just and reasonable.

The case was taken into the courts, not as a result of a rate reduction order but by reason of the refusal of the company to comply with a subpoena *duces tecum*. However, in an appearing clause in its order of August 9, 1941 (2 F. P. C. 1017–1018), the Commission stated that:

> The testimony and evidence adduced at said hearing shows, among other things, that Peoples sells natural gas at its Pew compressor station in Clarion County, Pennsylvania, to New York State Natural Gas Corporation, an *affiliated* company, and that the latter immediately transports said

> natural gas into the State of New York where it sells the same to others for resale for ultimate public consumption; the sale of natural gas by Peoples to New York State Natural Gas Corporation is a continuous process and appears to be a sale in interstate commerce of natural gas for resale for ultimate public consumption * * *. (Italics supplied.)

A careful analysis of the facts of these three cases and of the present case shows that the Commission has never sought to extend its jurisdiction over the sales of natural gas made by independent producers and gatherers, but only over sales made by one otherwise a natural-gas company or where affiliation between seller and purchaser is involved or where there is transportation in interstate commerce by the seller after completion of gathering prior to the wholesale sale. Petitioner is otherwise a natural-gas company, is affiliated with a purchasing natural-gas company and transports the gas in interstate commerce prior to sale. Over such sales Congress intended there should be regulation in the national interest.

A review of the briefs submitted in behalf of the States of Oklahoma and Texas raises issues which we believe need not be considered by this Court. It appears to us that these States are more concerned about what they fear the Commission might do than what it has done.

We believe that in the face of the rulings of the Commission on Section 1 (b) and the decisions of this Court, it cannot be urged, as the State of Oklahoma has, that the decision of the court below repeals State statutes and stifles the power of the States to conserve their oil and gas resources. Reference is made by the State of Oklahoma to an order recently issued by its Corporation Commission fixing the wellhead price for gas in the Guymon section of the Hugoton gas field. We do not contend that the Natural Gas Act has given the Commission authority to promulgate an order directed to the thousands of independent producers in the States of Oklahoma and Texas to the effect that they cannot sell gas beyond a certain price.

The Commission has recognized that there are many complex problems connected with the administration of Section 1 (b). Further, it has been fully cognizant of the concern on the part of the natural-gas industry that the Commission might invade fields not within its jurisdiction. In addition to expressions on the subject in cases decided by it the Commission has issued official statements[14] dealing with the subject indicating

[14] In a letter to Governor Andrew F. Schoeppel, Chairman of the Interstate Oil Compact Commission, dated December 30, 1945, the Commission, referring to its national Natural Gas Investigation (Docket No. G-580), instituted by it for

that it did not regard its authority as extending to the regulation of production and gathering or of those engaged solely in such operations.

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the purpose of inquiring into all aspects of the gas industry, and reporting thereon to the Congress with recommendations and conclusions, said:

"* * * We wish to assure the representatives of all the gas producing States that the Federal Power Commission has no desire to extend its jurisdiction to cover the production of natural gas or otherwise invade what are properly regarded as the functions of the conservation authorities of the several States * * * in instituting this investigation, the Commission has no desire to interfere with the several States in the full and effective exercise of their authority regarding either the production or local distribution of natural gas."

Subsequent to the sending of the letter to Governor Schoeppel, the Commission in a statement issued on July 21, 1945, to William R. Boyd, Jr., Chairman of the Petroleum Industry War Council, said:

"At the time the above letter was written it was believed that this declaration should be sufficient to completely reassure those who had expressed some apprehension that the Commission might be seeking to extend its jurisdiction over the production of natural gas or in some other manner interfere with the several States in the exercise of their respective authorities with regard to natural gas.

"It now appears, however, that similar fears have been expressed that the Commission might be seeking to extend its jurisdiction to the production of oil or to establish some degree of regulatory authority with respect to petroleum pipe lines.

"It seems desirable therefore to declare in unequivocal language that the Commission has no desire or intent to extend its jurisdiction as regards either oil or petroleum pipe lines * * *."

CONCLUSION

For the reasons stated, it is respectfully submitted that the decision below should be affirmed.

GEORGE T. WASHINGTON,
Acting Solicitor General.

BRADFORD ROSS,
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Principal Attorney,
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APRIL 1947.

U. S. GOVERNMENT PRINTING OFFICE, 1947

FEDERAL POWER COMMISSION

NATURAL GAS ACT



[PUBLIC LAW 444—77TH CONGRESS]

[CHAPTER 49—2D SESSION]

[H. R. 5249]

AN ACT

To amend section 7 of the Natural Gas Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Natural Gas Act, approved June 21, 1938, is hereby amended by striking out subsection (c) thereof and by adding after subsection (b) the following new subsections:

"(c) No natural-gas company or person which will be a natural-gas company upon completion of any proposed construction or extension shall engage in the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or undertake the construction or extension of any facilities therefor, or acquire or operate any such facilities or extensions thereof, unless there is in force with respect to such natural-gas company a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations: *Provided, however*, That if any such natural-gas company or predecessor in interest was bona fide engaged in transportation or sale of natural gas, subject to the jurisdiction of the Commission, on the effective date of this amendatory Act, over the route or routes or within the area for which application is made and has so operated since that time, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission within ninety days after the effective date of this amendatory Act. Pending the determination of any such application, the continuance of such operation shall be lawful.

"In all other cases the Commission shall set the matter for hearing and shall give such reasonable notice of the hearing thereon to all interested persons as in its judgment may be necessary under rules and regulations to be prescribed by the Commission; and the application shall be decided in accordance with the procedure provided in subsection (e) of this section and such certificate shall be issued or denied accordingly: *Provided, however*, That the Commission may issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate, and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate will not be required in the public interest.

"(d) Application for certificates shall be made in writing to the Commission, be verified under oath, and shall be in such form, contain such information, and notice thereof shall be served upon such

interested parties and in such manner as the Commission shall, by regulation, require.

"(e) Except in the cases governed by the provisos contained in subsection (c) of this section, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation, sale, service, construction, extension, or acquisition covered by the application, if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Act and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. The Commission shall have the power to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require.

"(f) The Commission, after a hearing had upon its own motion or upon application, may determine the service area to which each authorization under this section is to be limited. Within such service area as determined by the Commission a natural-gas company may enlarge or extend its facilities for the purpose of supplying increased market demands in such service area without further authorization.

"(g) Nothing contained in this section shall be construed as a limitation upon the power of the Commission to grant certificates of public convenience and necessity for service of an area already being served by another natural-gas company."

Approved, February 7, 1942.

FEDERAL POWER COMMISSION

NATURAL GAS ACT

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FEDERAL POWER COMMISSION

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TABLE OF CONTENTS

NATURAL GAS ACT

	Page
Section 1	1
Section 2	1
Section 3	2
Section 4	3
Section 5	5
Section 6	6
Section 7	6
Section 8	7
Section 9	9
Section 10	10
Section 11	10
Section 12	11
Section 13	11
Section 14	12
Section 15	14
Section 16	15
Section 17	16
Section 18	17
Section 19	17
Section 20	19
Section 21	20
Section 22	20
Section 23	21
Section 24	21
Appendix: Executive Order No. 8202 relating to the issuance of Presidential permits for physical connections in the transmission of electric energy and natural gas between the United States and foreign countries	22
Index to Natural Gas Act	23

FOREWORD

NATURAL GAS ACT

The Natural Gas Act was approved June 21, 1938 (52 Stat. 833; title 15 U. S. C. 717–717W).

NATURAL GAS ACT

[PUBLIC—No. 688—75TH CONGRESS]
[CHAPTER 556—3D SESSION]
[H. R. 6586]

AN ACT

To regulate the transportation and sale of natural gas in interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

NECESSITY FOR REGULATION OF NATURAL-GAS COMPANIES

Declaration of policy.

SECTION 1. (a) As disclosed in reports of the Federal Trade Commission made pursuant to Senate Resolution 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest.

Act applies to transportation and sale for resale of natural gas in interstate commerce.

(b) The provisions of this act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

Not to apply to other transportation or sale or to the local distribution or facilities or gathering of natural gas.

Meaning of terms as used.

SEC. 2. When used in this act, unless the context otherwise requires—

"Person."

"Corporation."

(1) "Person" includes an individual or a corporation.

(2) "Corporation" includes any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or receivers, trustee or trustees of any of the foregoing, but shall not include municipalities as hereinafter defined.

"Municipality."

(3) "Municipality" means a city, county, or other political subdivision or agency of a State.

"State."

(4) "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

"Natural gas."

(5) "Natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.

"Natural-gas company."

(6) "Natural-gas company" means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.

"Interstate commerce."

(7) "Interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, but only insofar as such commerce takes place within the United States.

"State commission."

(8) "State commission" means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the State or municipality.

"Commission" and "Commissioner."

(9) "Commission" and "Commissioner" means the Federal Power Commission, and a member thereof, respectively.

EXPORTATION OR IMPORTATION OF NATURAL GAS

Exportation or importation prohibited except on Commission order granting authority.

SEC. 3. After six months from the date on which this act takes effect no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest. The Commission may by its order grant such application, in whole or in part, with such modification and upon such terms and conditions as the Commission may find neces-

Application; hearing.

Order may be granted wholly, or in part, and on conditions.

sary or appropriate, and may from time to time, after opportunity for hearing, and for good cause shown, make such supplemental order in the premises as it may find necessary or appropriate.

Supplemental order.

RATES AND CHARGES; SCHEDULES; SUSPENSION OF NEW RATES

Rates and charges for transportation or sale to be just and reasonable.

SEC. 4. (a) All rates and charges made, demanded, or received by any natural-gas company for or in connection with the transportation or sale of natural gas subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges, shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

Unreasonable rates and charges are unlawful.

(b) No natural-gas company shall, with respect to any transportation or sale of natural gas subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

Undue preference or advantage prohibited.

Unreasonable differences in rates, etc., or in localities or classes of service forbidden.

(c) Under such rules and regulations as the Commission may prescribe, every natural-gas company shall file with the Commission, within such time (not less than sixty days from the date this act takes effect) and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection, schedules showing all rates and charges for any transportation or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

Filing and posting of rate schedules subject to rules and regulations of Commission.

Public to have access to rate schedules.

(d) Unless the Commission otherwise orders, no change shall be made by any natural-gas company in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after thirty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the

Thirty days' notice of change in rates required.

Posting; filing rate changes.

Relief by Commission from operation of section.

time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the thirty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

Investigation of new schedules may be made on complaint or initiative of Commission.

Hearing.

Suspension pending decision.

(e) Whenever any such new schedule is filed the Commission shall have authority, either upon complaint of any State, municipality, or State commission, or upon its own initiative without complaint, at once, and if it so orders, without answer or formal pleading by the natural-gas company, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the natural-gas company affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, but not for a longer period than five months beyond the time when it would otherwise go into effect: *Provided*, That the Commission shall not have authority to suspend the rate, charge, classification, or service for the sale of natural gas for resale for industrial use only; and after full hearings, either completed before or after the rate, charge, classification, or service goes into effect, the Commission may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made at the expiration of the suspension period, on motion of the natural-gas company making the filing, the proposed change of rate, charge, classification, or service shall go into effect. Where increased rates or charges are thus made effective, the Commission may, by order, require the natural-gas company to furnish a bond, to be approved by the Commission, to refund any amounts ordered by the Commission, to keep accurate accounts in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and, upon completion of the hearing and decision, to order such natural-gas company

Suspension period not to exceed 5 months.

Rate, etc., for sale for resale for industrial use only cannot be suspended.

On expiration of suspension period change, on motion, shall go into effect.

If rates are increased, bond for refund may be required.

Accurate accounts of increased rate collections.

to refund, with interest, the portion of such increased rates or charges by its decision found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the natural-gas company, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.

Refund of increased amount.

Burden of proof as to reasonableness of increased rate on company.

Preference.

FIXING RATES AND CHARGES; DETERMINATION OF COST OF PRODUCTION OR TRANSPORTATION

SEC. 5. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint of any State, municipality, State commission, or gas distributing company, shall find that any rate, charge, or classification demanded, observed, charged, or collected by any natural-gas company in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order: *Provided, however*, That the Commission shall have no power to order any increase in any rate contained in the currently effective schedule of such natural gas company on file with the Commission, unless such increase is in accordance with a new schedule filed by such natural gas company; but the Commission may order a decrease where existing rates are unjust, unduly discriminatory, preferential, otherwise unlawful, or are not the lowest reasonable rates.

Commission upon own motion or complaint may determine reasonable rate, etc.

Just and reasonable rate, etc., shall be fixed by order.

Commission cannot order increase apart from filed schedule, but may order decrease in rates, etc.

(b) The Commission upon its own motion, or upon the request of any State commission, whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transportation of natural gas by a natural-gas company in cases where the Commission has no authority to establish a rate governing the transportation or sale of such natural gas.

Commission may investigate and determine cost of production or transportation where it cannot establish rate.

ASCERTAINMENT OF COST OF PROPERTY

Actual legitimate cost of property, depreciation, etc., to be ascertained for rate making.

SEC. 6. (a) The Commission may investigate and ascertain the actual legitimate cost of the property of every natural-gas company, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation and the fair value of such property.

Inventory, statement of original cost, and additions, betterments, etc., to be filed upon request.

(b) Every natural-gas company upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, extensions, and new construction.

EXTENSION OF FACILITIES; ABANDONMENT OF SERVICE

Commission may direct extension or improvement of transportation facilities and establishment of physical connections.

SEC. 7. (a) Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a natural-gas company to extend or improve its transportation facilities, to establish physical connection of its transportation facilities with the facilities of, and sell natural gas to, any person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural-gas company, if the Commission finds that no undue burden will be placed upon such natural-gas company thereby: *Provided*, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel such natural-gas company to establish physical connection or sell natural gas when to do so would impair its ability to render adequate service to its customers.

Commission has no authority to compel enlargement of facilities, etc., if ability of company to render adequate service is impaired.

No abandonment of facilities or service without approval of Commission.

(b) No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or

future public convenience or necessity permit such abandonment.

Certificate of public convenience and necessity required for construction or extension of facilities.

(c) No natural-gas company shall undertake the construction or extension of any facilities for the transportation of natural gas to a market in which natural gas is already being served by another natural-gas company, or acquire or operate any such facilities or extensions thereof, or engage in transportation by means of any new or additional facilities, or sell natural gas in any such market, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require such new construction or operation of any such facilities or extensions thereof: *Provided, however*, That a natural-gas company already serving a market may enlarge or extend its facilities for the purpose of supplying increased market demands in the territory in which it operates. Whenever any natural-gas company shall make application for a certificate of convenience and necessity under the provisions of this subsection, the Commission shall set the matter for hearing and shall give such reasonable notice of the hearing thereon to all interested persons as in its judgment may be necessary under rules and regulations to be prescribed by the Commission. In passing on applications for certificates of convenience and necessity, the Commission shall give due consideration to the applicant's ability to render and maintain adequate service at rates lower than those prevailing in the territory to be served, it being the intention of Congress that natural gas shall be sold in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial, or any other use at the lowest possible reasonable rate consistent with the maintenance of adequate service in the public interest.

Exception where market demands increased in territory where applicant operates.

Procedure upon application for certificate of convenience and necessity.

Intention that natural gas shall be sold in interstate commerce for resale, etc., at lowest reasonable rate, etc.

ACCOUNTS, RECORDS, AND MEMORANDA

Natural-gas companies must keep accounts, records, etc., in accordance with Commission rules.

SEC. 8. (a) Every natural-gas company shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the admin

Not relieved from keeping accounts, records, etc., required by State laws.

istration of this act: *Provided, however*, That nothing in this act shall relieve any such natural-gas company from keeping any accounts, memoranda, or records which such natural-gas company may be required to keep by or under authority of the laws of any State.

Commission may prescribe system of accounts and classify companies.

The Commission may prescribe a system of accounts to be kept by such natural-gas companies, and may classify such natural-gas companies and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular outlays or receipts shall be entered, charged, or credited.

Burden of proof to justify entries.

The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof.

Commission may suspend charges or credits pending proof.

Commission to have access to and right to inspect accounts, etc.

(b) The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of natural-gas companies; and it shall be the duty of such natural-gas companies to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested so to do.

Companies to furnish information, as Commission orders.

Information obtained by employees, etc., of Commission not to be divulged except as ordered by Commission or court.

No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books, records, data, or accounts, except insofar as he may be directed by the Commission or by a court.

Books of persons controlling natural-gas companies subject to Commission examination.

(c) The books, accounts, memoranda, and records of any person who controls directly or indirectly a natural-gas company subject to the jurisdiction of the Commission and of any other company controlled by such person, insofar as they relate to transactions with or the business of such natural-gas company, shall be subject to examination on the order of the Commission.

RATES OF DEPRECIATION

Depreciation and amortization accounts to be in accordance with Commission rules.

Commission may determine adequate rate of depreciation.

SEC. 9. (a) The Commission may, after hearing, require natural-gas companies to carry proper and adequate depreciation and amortization accounts in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may from time to time ascertain and determine, and by order fix, the proper and adequate rates of depreciation and amortization of the several classes of property of each natural-gas company used or useful in the production, transportation, or sale of natural gas. Each natural-gas company shall conform its depreciation and amortization accounts to the rates so ascertained, determined, and fixed. No natural-gas company subject to the jurisdiction of the Commission shall charge to operating expenses any depreciation or amortization charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation or amortization other than that prescribed therefor by the Commission. No such natural-gas company shall in any case include in any form under its operating or other expenses any depreciation, amortization, or other charge or expenditure included elsewhere as a depreciation or amortization charge or otherwise under its operating or other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any natural-gas company, the percentage rates of depreciation or amortization to be allowed, as to any class of property of such natural-gas company, or the composite depreciation or amortization rate, for the purpose of determining rates or charges.

Depreciation charges shall not be charged to operating expenses unless authorized.

Jurisdiction of State commissions not limited by this section.

Commission may prescribe rules as to accounts, etc., or depreciation rates.

(b) The Commission, before prescribing any rules or requirements as to accounts, records, or memoranda, or as to depreciation or amortization rates, shall notify each State commission having jurisdiction with respect to any natural-gas company involved and shall give reasonable opportunity to each such commission to present its views and shall receive and consider such views and recommendations.

Notice and opportunity to State commissions to present recommendations.

PERIODIC AND SPECIAL REPORTS

Natural-gas companies shall file reports as required.

Form to be prescribed by Commission.

Contents of reports.

Current determination of costs, etc.

Reports under oath.

SEC. 10. (a) Every natural-gas company shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this act. The Commission may prescribe the manner and form in which such reports shall be made, and require from such natural-gas companies specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, investment and reduction thereof, gross receipts, interest due and paid, depreciation, amortization, and other reserves, cost of facilities, cost of maintenance and operation of facilities for the production, transportation, or sale of natural gas, cost of renewal and replacement of such facilities, transportation, delivery, use, and sale of natural gas. The Commission may require any such natural-gas company to make adequate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.

Willful hindrance in making reports, etc., unlawful.

(b) It shall be unlawful for any natural-gas company willfully to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, memorandum, record, or account required to be made, filed, or kept under this act or any rule, regulation, or order thereunder.

STATE COMPACTS; REPORTS ON

Commission to assemble and to report to Congress information on proposed compacts between States relating to conservation, etc., of natural gas.

SEC. 11. (a) In case two or more States propose to the Congress compacts dealing with the conservation, production, transportation, or distribution of natural gas it shall be the duty of the Commission to assemble pertinent information relative to the matters covered in any such proposed compact, to make public and to report to the Congress information so obtained, together with such recommendations for further legislation as may appear to be appropriate or necessary to carry out the purposes of such proposed compact and to aid in the con-

servation of natural-gas resources within the United States and in the orderly, equitable, and economic production, transportation, and distribution of natural gas.

Commission to assemble current information relative to compacts between States.

(b) It shall be the duty of the Commission to assemble and keep current pertinent information relative to the effect and operation of any compact between two or more States heretofore or hereafter approved by the Congress, to make such information public, and to report to the Congress, from time to time, the information so obtained, together with such recommendations as may appear to be appropriate or necessary to promote the purposes of such compact.

Information to be public.

Reports and recommendations to be made to Congress.

Records of other Government agencies to be available to Commission.

(c) In carrying out the purposes of this act, the Commission shall, so far as practicable, avail itself of the services, records, reports, and information of the executive departments and other agencies of the Government, and the President may, from time to time, direct that such services and facilities be made available to the Commission.

OFFICIALS DEALING IN SECURITIES

Unlawful for officers or directors to benefit from sale or issuance of securities.

SEC. 12. It shall be unlawful for any officer or director of any natural-gas company to receive for his own benefit, directly or indirectly, any money or thing of value in respect to the negotiation, hypothecation, or sale by such natural-gas company of any security issued, or to be issued, by such natural-gas company, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends, other than liquidating dividends, of such natural-gas company from any funds properly included in capital account.

Unlawful for officers or directors to pay dividends from capital account.

COMPLAINTS

State, municipality, or State commission may file complaints.

SEC. 13. Any State, municipality, or State commission complaining of anything done or omitted to be done by any natural-gas company in contravention of the provisions of this act may apply to the Commission by petition, which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such natural-gas company, which shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission.

Contents of petition.

Complaint to be forwarded to natural-gas company by Commission.

Answers to complaints to be filed in time specified by Commission.

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INVESTIGATIONS BY COMMISSION; ATTENDANCE OF WITNESSES; DEPOSITIONS

Investigation by Commission of violations, etc.

SEC. 14. (a) The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of this act or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation to the Congress. The Commission may permit any person to file with it a statement in writing, under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish in the manner authorized by section 312 of the Federal Power Act, and make available to State commissions and municipalities, information concerning any such matter.

Permission to persons to file statement concerning investigation.

Commission may publish information and make information available to State commissions, etc.

Adequacy of gas reserves may be determined by Commission.

(b) The Commission may, after hearing, determine the adequacy or inadequacy of the gas reserves held or controlled by any natural-gas company, or by anyone on its behalf, including its owned or leased properties or royalty contracts; and may also, after hearing, determine the propriety and reasonableness of the inclusion in operating expenses, capital, or surplus of all delay rentals or other forms of rental or compensation for unoperated lands and leases. For the purpose of such determinations, the Commission may require any natural-gas company to file with the Commission true copies of all its lease and royalty agreements with respect to such gas reserves.

Reasonableness of inclusion in operating expenses, etc., of charges for unoperated lands or leases, delay rentals.

Natural-gas companies may be required to file copies of all leases, royalty agreements.

(c) For the purpose of any investigation or any other proceeding under this act, any member of the Commission, or any officer designated by it, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the

Member of Commission may administer oath, subpena witnesses, compel their attendance, etc., and require production of books, records, etc.

United States or at any designated place of hearing. Witnesses summoned by the Commission to appear before it shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Designated place of hearing.

Fees of witnesses.

(d) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found or may be doing business. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpena of the Commission, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or both.

Aid of court may be invoked in cases of refusal to obey subpenas, contumacy.

Venue for application.

Court may order appearance of witness and production of records.

Failure to obey court order punishable as contempt.

Service of process.

Misdemeanor for failure to appear and testify or to produce books, etc.

Fine and imprisonment upon conviction.

(e) The testimony of any witness may be taken at the instance of a party, in any proceeding or investigation pending before the Commission, by deposition at any time after the proceeding is at issue. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such depositions may be taken before any person authorized to administer oaths not being of counsel or attorney to either of the parties, nor interested in the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and

Testimony by deposition.

Deposition may be taken before anyone authorized to administer oaths.

Counsel or parties in interest may not take deposition.

Notice of taking of deposition to opposite party.

the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided. Such testimony shall be reduced to writing by the person taking deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

Witnesses may be compelled to make deposition, etc.

Testimony shall be reduced to writing and subscribed to by deponent.

(f) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

Deposition may be taken in foreign country.

Depositions to be filed with Commission.

(g) Witnesses whose depositions are taken as authorized in this act, and the person or officer taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States.

Fees allowed deponents and persons taking same.

(h) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the Commission, or in obedience to the subpena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

No person excused from testifying, etc., before Commission on ground that testimony may tend to incriminate him.

No person claiming privilege shall be prosecuted on his testimony, etc.

Not exempt from prosecution for perjury in so testifying.

HEARINGS; RULES OF PROCEDURE

Any member of Commission or designated representative may conduct hearings.

Records of hearings shall be kept.

SEC. 15. (a) Hearings under this act may be held before the Commission, any member or members thereof, or any representative of the Commission designated by it, and appropriate records thereof shall be kept. In

any proceeding before it, the Commission in accordance with such rules and regulations as it may prescribe, may admit as a party any interested State, State commission, municipality or any representative of interested consumers or security holders, or any competitor of a party to such proceeding, or any other person whose participation in the proceeding may be in the public interest.

Commission to make rules for hearings.

Parties to proceeding.

(b) All hearings, investigations, and proceedings under this act shall be governed by rules of practice and procedure to be adopted by the Commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation issued under the authority of this act.

Rules of practice and procedure; technical rules of evidence need not be applied.

Informality of hearing, etc., not to invalidate any order, rule, etc.

ADMINISTRATIVE POWERS OF COMMISSION; RULES, REGULATIONS, AND ORDERS

SEC. 16. The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this act. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this act; and may prescribe the form or forms of all statements, declarations, applications, and reports to be filed with the Commission, the information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours.

General powers of Commission to issue, amend, rescind orders; prescribe rules and regulations; define accounting terms; prescribe forms.

Effective date of rules and regulations, etc.

Persons and matters within jurisdiction of Commission may be classified.

Rules and regulations shall be filed with Secretary and open in convenient form for public inspection.

USE OF JOINT BOARDS; COOPERATION WITH STATE COMMISSIONS

Reference of matters to joint boards composed of members from States affected.

Power of joint boards.

Force and effect of action of joint boards.

Appointment of joint boards.

Allowances for expenses of board members.

Matters referred to board may be revoked.

Conferences with State commissions regarding rates, accounts, etc., authorized.

Cooperation with State commission.

Information and reports of Commission available to State commissions.

SEC. 17. (a) The Commission may refer any matter arising in the administration of this act to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The Board shall be appointed by the Commission from persons nominated by the State commission of each State affected, or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient reason exists therefor, revoke any reference to such a board.

(b) The Commission may confer with any State commission regarding rate structures, costs, accounts, charges, practices, classifications, and regulations of natural-gas companies; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this act to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

(c) The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of natural-gas companies. Whenever the Commission can do so with-

out prejudice to the efficient and proper conduct of its affairs, it may, upon request from a State commission, make available to such State commission as witnesses any of its trained rate, valuation, or other experts, subject to reimbursement of the compensation and traveling expenses of such witnesses. All sums collected hereunder shall be credited to the appropriation from which the amounts were expended in carrying out the provisions of this subsection.

Availability of Commissions' experts as witnesses to State commissions.

Disposition of compensation received from State commissions for experts, etc.

APPOINTMENT OF OFFICERS AND EMPLOYEES

SEC. 18. The Commission is authorized to appoint and fix the compensation of such officers, attorneys, examiners, and experts as may be necessary for carrying out its functions under this act, without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; and the Commission may, subject to civil-service laws, appoint such other officers and employees as are necessary for carrying out such functions and fix their salaries in accordance with the Classification Act of 1923, as amended.

Appointment of officers, attorneys, examiners, and experts.

Provisions of other laws relevant to employment and compensation not applicable.

Appoint other officers and employees under Classification Act, 1923.

REHEARINGS; COURT REVIEW OF ORDERS

SEC. 19. (a) Any person, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this act to which such person, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing. Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied. No proceeding to review any order of the Commission shall be brought by any person unless such person shall have made application to the Commission for a rehearing thereon.

Rehearing on order of Commission.

Application must be made within 30 days of order.

Application for rehearing shall set forth grounds upon which based. Commission may grant or deny application.

Application automatically denied unless Commission acts within 30 days.

Application for rehearing must precede court review of order.

(b) Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the

Review of Commission orders by Circuit Court of Appeals or District of Columbia Court of Appeals.

Venue for appeal. Petition for review must be filed within 60 days after order on application for rehearing.

Service of copy of petition on Commission.

Transcript of record prepared by Commission and certified to Court.

Upon filing of transcript, Court has exclusive jurisdiction to affirm, modify, or set aside Commission order.

Only objections urged before Commission shall be considered by Court.

Findings of fact supported by substantial evidence are conclusive.

Additional evidence may be adduced before Commission upon leave of Court.

Commission may modify its findings by reason of such evidence.

Modified or new findings to be filed with Court.

Judgment or decree of Court on appeal final subject to review by Supreme Court.

circuit court of appeals of the United States for any circuit wherein the natural-gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon any member of the Commission and thereupon the Commission shall certify and file with the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings, which if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347):

(c) The filing of an application for rehearing under subsection (a) shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

Order of Commission not stayed by application for rehearing unless specifically ordered.

Order of Commission not stayed by petition for review, unless ordered by court.

ENFORCEMENT OF ACT; REGULATIONS AND ORDERS

SEC. 20. (a) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this act, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper district court of the United States, the District Court of the United States for the District of Columbia, or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this act or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices or concerning apparent violations of the Federal antitrust laws to the Attorney General, who, in his discretion, may institute the necessary criminal proceedings.

Violation of provisions of act or of rules, regulations, orders of the Commission may be enjoined in District Court, etc.

Venue for injunction action.

Attorney General may institute criminal proceedings.

(b) Upon application of the Commission the district courts of the United States, the District Court of the United States for the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this act or any rule, regulation, or order of the Commission thereunder.

District courts, upon application of Commission, may issue writs of mandamus.

(c) The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interest in investigations made by it, or cases or proceedings pending before it, whether at the Commission's own instance

Commission may employ attorneys to aid generally and to represent it in court.

Expenses of employment to be paid out of Commission's appropriation.

or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission.

GENERAL PENALTIES

Willful violations of act, etc., punishable by fine and imprisonment.

SEC. 21. (a) Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this act required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

Willful violations of rules, regulations, orders, etc., punishable by fine.

(b) Any person who willfully and knowingly violates any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this act, shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine of not exceeding $500 for each and every day during which such offense occurs.

JURISDICTION OF OFFENSES; ENFORCEMENT OF LIABILITIES AND DUTIES

District Courts have exclusive jurisdiction of violations of act or of rules, regulations, and orders.

Venue in criminal proceedings.

Venue in civil cases.

Judgments, decrees subject to review as provided by Judicial Code.

SEC. 22. The District Courts of the United States, the District Court of the United States for the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this act or the rules, regulations, and orders thereunder, and of all suits in equity and actions at law, brought to enforce any liability or duty created by, or to enjoin any violation of, this act or any rule, regulation, or order thereunder. Any criminal proceeding shall be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this act or any rule, regulation, or order thereunder may be brought in any such district or in the district wherein the defendant is an inhabitant, and process in such cases may be served wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided

in sections 128 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 225 and 347). No costs shall be assessed against the Commission in any judicial proceeding by or against the Commission under this act.

Costs cannot be assessed against Commission.

SEPARABILITY OF PROVISIONS

SEC. 23. If any provision of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Separability of provisions.

SEC. 24. This act may be cited as the "Natural Gas Act."

Short title.

Approved, June 21, 1938.

APPENDIX

EXECUTIVE ORDER

[No. 8202]

AUTHORIZING AND REQUESTING THE FEDERAL POWER COMMISSION TO PERFORM CERTAIN FUNCTIONS RELATING TO THE TRANSMISSION OF ELECTRIC ENERGY BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES AND TO THE EXPORTATION AND IMPORTATION OF NATURAL GAS FROM AND INTO THE UNITED STATES

By virtue of the authority vested in me as President of the United States, and as an aid in effectuating the provisions of the Federal Power Act, approved August 26, 1935 (49 Stat. 838), and the Natural Gas Act, approved June 21, 1938 (52 Stat. 821), I hereby authorize and request the Federal Power Commission (1) to receive all applications for permits for the construction, operation, maintenance, or connection, at the borders of the United States, of facilities for the transmission of electric energy between the United States and foreign countries, and for the exportation and importation of natural gas to or from foreign countries, and (2), after obtaining the recommendations of the Secretary of State and the Secretary of War thereon, to submit each such application to the President with a recommendation as to whether the permit applied for should be granted, and if so, upon what terms and conditions.

The Federal Power Commission may prescribe such regulations not inconsistent herewith as it may deem necessary or desirable for carrying out the provisions of this order.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
July 13, 1939.

INDEX

NATURAL GAS ACT

Section		Page
	Abandonment of facilities or service:	
7 (b)	Finding on	6
7 (b)	Hearing on	6
7 (b)	Permission for must be obtained	6
	Accounts (records, memoranda, etc.):	
8 (a)	Burden of proof re: accounting entry	8
8 (a)	Charge or credit in, Commission may suspend	8
8 (a)	Commission may classify	8
8 (b), (c)	Commission shall have access to	8
8 (b)	Duty of natural-gas company to furnish information on	8
8 (a)	Hearings on	8
8 (b)	Information obtained from books, records, etc., to be confidential subject to direction of Commission or court	8
8 (a)	Natural-gas company to make, keep, and preserve	7
8 (c)	Of persons controlling natural-gas companies	8
8 (a)	Records, etc., required by State law are to be kept	8
9 (b)	State commission to be notified and given opportunity to be heard before Commission prescribes rules or requirements as to accounts, etc	9
8 (a)	System of, Commission may prescribe	8
16	Terms, Commission may define	15
10 (b), 21	Willful obstruction to making, keeping, filing of, unlawful	10, 20
	Act:	
24	Citation of, as "Natural Gas Act"	21
20 (a), (b), 22.	Enforcement of	19, 20
21, 22	Punishment for violation of	20
23	Separability of provisions	21
20 (a)	Violation of provisions may be enjoined	19
14 (a)	Violation of provisions may be investigated	12
	Actions at law:	
22	Judgments in, subject to review	20
22	Jurisdiction of courts over	20
22	Venue in	20
6 (a)	Actual legitimate cost of property of natural-gas companies	6
	Additions to property:	
7 (a)	Commission may direct extensions, improvements	6
7 (c)	Requirement of certificate of convenience and necessity for additional facilities	7
6 (b)	Statement of cost of, to be filed with Commission	6
19 (b)	Additional evidence upon leave of court	18
14 (b)	Adequacy of gas reserves	12

Section		Page
7 (a), (c)	Adequate service	6
	Administration of act:	
20 (c)	Employment expenses incurred in	20
16	Powers of Commission in	15
14 (c)	Affirmations, Commission, etc., may administer	12
11 (c)	Agency of a State (*See* Municipality.): Agencies, other government, to assist Commission	11
16	Amendment of orders, rules, etc	15
9 (a)	Amortization (*See* Depreciation.): Commission may prescribe rates of	9
13	Answers to complaints	11
19 (a), (b)	Appeals: Court review of orders of Commission	17, 18
14 (d)	Appearance: Willful failure to appear and testify or answer, a misdemeanor	13
	Applications:	
7 (c)	For certificate of public convenience and necessity for construction or extension of facilities	7
16	Form of, may be prescribed by Commission	15
19 (a), (c)	For rehearing	17, 19
7 (b)	To abandon facilities or service	6
14 (d)	To enforce subpena	13
3	To export or import natural gas	2
	Approval by Commission:	
7 (b)	Of abandonment of facilities or service	6
7 (c)	Of construction or extension of facilities	7
3	Of export or importation of natural gas	2
	Ascertainment of cost of property:	
6 (a)	Actual legitimate cost, investigation of	6
6 (b)	Additions, betterments, etc	6
6 (a)	Depreciation therein	6
6 (a)	Investigation for rate-making purposes	6
6 (b)	Statement of original cost and inventory to be filed by natural-gas companies on request	6
	Association. (*See* Corporation.)	
18, 20 (c)	Attorneys: Appointment, employment of	17, 19
20 (a)	Attorney General: Reference of cases to, for institution of criminal proceedings	19
	Betterments. (*See* Additions.)	
4 (c)	Bond, Commission may require natural-gas company to give, if rates increased pending proceeding	4
	Books. (*See* Accounts, correspondence.)	
	Burden of proof:	
4 (e)	At hearing on increased rates or charges	5
8 (a)	In accounting matters	8
	Business Trust. (*See* Corporation.)	
	Capital:	
14 (b)	Inclusion in of delay rentals, etc	12
12	Officials of natural-gas companies not to pay dividends out of	11
10 (a)	Reports	10
	Certificate of public convenience and necessity:	
7 (c)	Application for in connection with construction or extension of facilities	7

Section		Page
7 (c)	Factors to be considered by Commission	7
7 (c)	Hearings on application for	7
7 (c)	Intention of Congress	7
7 (c)	When required	7
4 (d)	Change in rate, etc., upon 30 days' notice	3
	Charges. (*See* Rates.)	
	Circuit Court of Appeals:	
19 (b)	Decree or judgment on review of an order of Commission, subject to review by Supreme Court on certiorari or certification	18
19 (b)	Finding of Commission, if supported by substantial evidence, conclusive	18
19 (b)	Jurisdiction to affirm, etc., orders of Commission	18
19 (c)	Jurisdiction to stay Commission order	19
19 (b)	Petition for review of order, to be filed in	18
19 (b)	Review of orders, may grant leave to adduce additional evidence	18
	City (*See* Municipality.):	
2 (3)	Included in definition of "municipality"	2
5 (a)	May file complaint as to reasonableness, etc., of rate, etc.	5
13	May file complaint of violation of Act generally	11
18	Civil-service classification of employees	17
18	Classification Act of 1923	17
	Classifications:	
4 (c)	Affecting rates and charges, to be filed with Commission and kept open for public inspection	3
5 (a)	By natural-gas companies, Commission to determine whether just and reasonable, etc	5
4 (d)	Change in, 30 days' notice required	3
4 (c)	Contracts affecting, to be filed with Commission and kept open for public inspection	3
4 (e)	Lawfulness of, investigation and hearing thereon	4
8 (a)	Of natural-gas companies by Commission	8
16	Of persons and matters for rules and regulations	15
4 (e)	Suspension of	4
	Commerce. (*See* Interstate commerce, foreign commerce, exportation and importation of natural gas.)	
1 (b)	Commercial use of natural gas, jurisdiction of Commission	1
	Commission:	
16	Administrative powers of	15
15 (a)	Any member of, may hold hearings	14
18, 20 (e)	Authorized to appoint officers, attorneys, examiners, experts, employees	17, 19
14 (a)	Authorized to make public information	12
2 (9)	Defined	2
14 (c)	Depositions, may order testimony taken by	13
18, 20 (e)	Expenditures of	17, 20
	Investigations by. (*See* Investigations.)	
1 (a), (b), 5 (b)	Jurisdiction of	1, 5
8 (b)	Officers or employees of, not to divulge information	8
14 (c)	Officers or members of, empowered to administer oaths, subpena witnesses, etc	12

Section		Page
16	Orders, power to issue, make, etc	15
9 (b)	Rules and regulations for accounts, depreciation rates, etc., notice to State commissions	9
16	Rules and regulations, power to make, issue, etc	15
11 (c)	Services, records, etc., of executive departments and other agencies of Government to be made available to	11
8 (b)	Shall have access to accounts, etc., of natural-gas companies	8
17 (b)	To confer, cooperate with and hold joint hearings with State commissions, etc	16
17 (c)	To make data and reports available to State commissions, etc	16
11 (a), (b)	To make reports on State compacts to Congress, etc	10, 11
	Commissioner (*See* Commission.):	
2 (9)	Defined	2
14 (c), 15 (a).	May administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, require production of books, etc., hold hearings	12, 14
	Compensation of employees:	
20 (c)	Attorneys to be paid out of appropriation for Commission	20
18	Fixed in accordance with the Classification Act of 1923	17
15 (a)	Competitor, representative of, may be admitted as a party	15
	Complaints:	
13	Natural-gas companies notified of	11
5 (a)	Regarding unreasonableness, etc., of rates, etc	5
13	Satisfaction of, or answer in writing, by natural-gas company, Commission may require	11
13	State, municipality, or State commission may apply by petition to Commission	11
13	To state facts briefly	11
7 (a)	Connection of facilities of natural-gas company may be ordered by Commission	6
11 (a), (b)	Conservation of natural gas: State compacts	10, 11
	Construction:	
7 (c)	Of facilities, when certificate of public convenience and necessity required	7
6 (b)	Of new facilities, Commission to be informed of cost	6
14 (d)	Contempt of court for failure to obey court order requiring testimony or production of records before Commission	13
	Contracts:	
5 (a)	Affecting rates, charges, or classifications, subject to jurisdiction of Commission	5
4 (c)	Affecting rates, charges, or classifications, to be filed with Commission and kept open for public inspection	3
4 (d)	Change in, relating to rates, charges, classifications, prohibited unless on 30 days' notice, except by order of Commission	3
5 (a)	Reasonableness of, etc., where affecting rates, etc., to be determined by Commission	5
14 (b)	Royalty	12
8 (c)	Controlling interest: Books, accounts, memoranda, and records of, subject to examination	8

Section		Page
14 (d)	Contumacy, in case of, or refusal to obey subpena, Commission may invoke court aid	13
17	Cooperation with State commissions	16
	Coordination of facilities. (*See* Interconnection of facilities.)	
2 (2)	Corporation, defined	2
	Correspondence, papers, etc. (*See* also Accounts.):	
14 (c), (h)	Commission may compel production of	12, 14
8 (a)	Natural-gas company to keep and preserve	7
	Cost:	
6 (a)	Actual legitimate, of property of natural-gas company	6
10 (a)	Commission may require reports concerning, etc	10
6 (b)	Of additions, betterments, extensions, and new construction, Commission to be informed as to	6
5 (b)	Of production and transportation of natural gas where Commission has no authority to establish rate, determination of	5
6 (b)	Original statement of, by natural-gas company required (*cf.* Fair value)	6
2 (3)	County included in definition of "municipality"	2
	Courts (*see* District courts, Circuit Court of Appeals, District of Columbia Court of Appeals):	
20 (a)	Action to enjoin violation of act, rule, regulation, or order thereunder	19
14 (d)	Aid of, may be invoked in case of contumacy or refusal to obey subpena	13
21 (a), (b), 22.	Jurisdiction of, over offenses violative of act, rule, regulations, and orders thereunder	20
20 (b)	May issue mandamus to compel compliance with act, rule, regulation, and order thereunder	19
14 (d)	May order appearance of person before Commission, production of records	13
19 (a), (b), (c), 20 (a), (b), 22.	Court proceedings (*See* Actions at law, courts, court review, criminal proceedings.): Court review of Commission orders	17, 18, 19, 20
	Criminal Proceedings:	
20 (a)	Instituted by Attorney General	19
21 (a), (b), 22.	Jurisdiction as to	20
22	Venue in	20
16	Declaration, form of, to be prescribed by Commission	15
1 (a), 7 (c)	Declaration of policy of Act	1, 7
	Definitions:	
2 (9)	Commission	2
2 (9)	Commissioner	2
2 (2)	Corporation	2
2 (7)	Interstate commerce	2
2 (3)	Municipality	2
2 (5)	Natural gas	2
2 (6)	Natural-gas company	2
2 (1)	Person	2
2 (4)	State	2

Section		Page
2 (8)	State commission	2
14 (b)	Delay rentals, etc., inclusion of, in operating expense, etc	12
	Depositions:	
14 (e)	Any person may be compelled to appear and depose and produce documentary evidence	14
14 (e), (f)	Commission may order testimony taken by	13, 14
14 (c), (g)	Fees and mileage of witnesses making	13, 14
14 (e)	May be taken before any person authorized to administer oaths, not being of counsel, etc	13
14 (e)	Notice of taking	13
14 (e)	Reduced to writing and subscribed	14
14 (e), (f)	Testimony of witness may be taken by	13, 14
	Depreciation (amortization):	
9 (a)	Accounts, Commission may require	9
9 (a)	Charges for, to operating expenses, prohibited, except as prescribed	9
6 (a)	In property of natural-gas company, ascertainment and investigation of	6
9 (a)	Jurisdiction of State commission over rates of, not limited by provisions of act	9
9 (a)	Percentage of, prescribed by Commission	9
10 (a)	Periodic reports as to, may be required by Commission	10
9 (b)	Procedure of Commission on prescribing rules, etc., as to, notice to State commissions	9
9 (a)	Rates of, Commission may fix, etc	9
12	Director of natural-gas company, unlawful to benefit by any dealing in security issues of natural-gas companies or declare dividends, other than liquidating, out of capital	11
4 (b), 5 (a)	Discrimination in rates, services, etc	3, 5
	District courts of the United States:	
20 (a), 22	Action in, to enjoin violation of act, orders, etc	19, 20
22	Jurisdiction, over violations of act, orders, etc	20
14 (d)	Jurisdiction in case of contumacy, etc., to compel testimony, etc., before Commission	13
20 (b)	Mandamus, may issue on application of Commission to enforce compliance with act, orders, etc	19
2 (4)	District of Columbia, included in definition of "State"	2
19 (a), (b), (c).	District of Columbia Court of Appeals: Jurisdiction as to review of Commission orders. (*See* Circuit Court of Appeals.)	17, 18, 19
12	Dividends, payment of, from capital account unlawful	11
14 (d), (h)	Document, willful failure to produce, on subpena, penal offense	13, 14
1 (b)	Domestic use of natural gas, jurisdiction of Commission	1
18, 20 (c)	Employees, Commission authorized to appoint	17, 19
	Evidence:	
19 (b)	Additional, may be adduced before Commission on order of court	18
15 (a)	Any member of Commission, or the Commission or any representative designated by it may take	14
15 (b)	Technical rules of, not applicable at hearings, etc	15
18	Examiners: Appointment of, by Commission	17

Section		Page
11 (c)	Executive departments: Services, records, etc., of, to be availed of by Commission, and President may direct that they be made available	11
	Expenses:	
18, 20 (c)	Authorization for Commission's incurring, in connection with employment of officers, attorneys, etc	17, 19
17 (c)	Reimbursement of compensation and traveling expenses of Commission experts made available to State commissions as witnesses	17
	Experts:	
18	Commission authorized to appoint	17
17 (c)	To be available as witnesses to State commissions	16
	Exportation of natural gas:	
3	Application for order of Commission permitting	2
3	Commission can permit, only on finding it will be consistent with the public interest	2
3	Hearing thereon	2
3	Order may be conditional	2
3	Prohibited unless order of Commission obtained	2
3	Supplemental order	3
	Extension of facilities:	
7 (c)	Certificate of public convenience and necessity required for, under certain circumstances	7
7 (a)	Commission may order	6
6 (b)	Commission must be informed of cost of	6
	Facilities:	
7 (b)	Abandonment of, without approval of Commission, forbidden	6
7 (c)	Acquisition of, for transportation to market already served, etc., certificates of public convenience and necessity for	7
7 (c)	Construction of, certificate of public convenience and necessity for	7
7 (c)	Extension of, certificate of public convenience and necessity for	7
7 (a)	Extension of, may be ordered by Commission	6
7 (a)	Improvement of, may be ordered by Commission	6
7 (a)	Interconnection of, may be ordered by Commission	6
1 (b)	Jurisdiction of Commission over	1
7 (c)	New or additional, engaging in transportation by means of, certificate of public convenience and necessity required	7
7 (c)	Operation of, certificate of public convenience and necessity for	7
10 (a)	Periodic and other reports of cost of, cost of maintenance and operation, renewal, replacement, etc., Commission may require	10
17 (b)	State commissions to make their facilities available to Commission	16
4 (b)	Unreasonable difference in, preference, etc., prohibited	3
6 (a)	Fair value, of property of natural-gas company, Commission may investigate facts bearing on	6

Section		Page
20 (a)	Federal antitrust laws, apparent violations to be brought to attention of Attorney General	19
14 (a)	Federal Power Act: Commission authorized to publish information concerning any matter investigated, as authorized by section 312 of	12
	Federal regulation:	
1 (a)	Policy on which based	1
1 (a), (b), 3, 5 (b)	Extent of, under act	1, 2, 5
1 (a)	Federal Trade Commission report pursuant to S. Res. 83 (70th Cong., 1st sess.) as to policy behind act	1
14 (c), (g)	Fees paid to witnesses	13, 14
	Findings of fact by Commission:	
19 (b)	Conclusive if supported by substantial evidence	18
19 (b)	May be modified by reason of additional evidence ordered taken by reviewing court	18
	Fines:	
21 (a)	For willfully and knowingly violating act	20
21 (b)	For willfully and knowingly violating rule, regulation, condition or order	20
14 (d)	For willfully failing or refusing to attend and testify or produce books, etc	13
	Foreign Commerce:	
1 (a)	Declaration of policy	1
3	Regulation of exportation and importation of natural gas	2
	Forms:	
16	In general, Commission may prescribe	15
4 (c)	Regarding rates and charges, etc	3
10 (a)	Regarding special and periodic reports	10
	Gas. (*See* Natural gas.)	
14 (b)	Gas reserves, adequacy of, to be determined by Commission after hearing	12
1 (b)	Gathering of natural gas, jurisdiction of Commission does not extend to	1
	Hearings:	
15 (a)	Before whom held	14
17 (a)	By Joint Board	16
15 (b)	Informality in, not to invalidate order, etc	15
15 (a)	Interested parties, admission of as interveners	15
15 (a)	Interveners, who may be permitted to intervene in	15
17 (b)	Joint hearings with State commissions	16
8 (a)	On accounts, etc	8
19 (b)	On additional evidence adduced on order of court reviewing Commission order	18
3	On application for authority to export or import natural gas	2
7 (c)	On application for certificate of public convenience and necessity for extension, etc., of facilities	7
7 (b)	On application for leave to abandon facilities	6
9 (a)	On depreciation accounts requirements by Commission	9
7 (a)	On extension, improvement, of facilities requirement by Commission	6
4 (e)	On lawfulness of new schedule of rates, etc	4

Section		Page
15 (a)	Records of, to be kept	14
15 (b)	Rules and regulations for, Commission may prescribe	15
15 (b)	Technical rules of evidence not applicable at	15
14 (b)	To determine adequacy of gas reserves	12
5 (a)	To determine, etc., just and reasonable rates, charges, etc.	5
3	Importation of natural gas	2
14 (h)	Incrimination, self—of persons testifying	14
2 (l)	Individual, included in the definition of "person"	1
	Industrial use of gas:	
4 (e)	Commission may not suspend rate, etc., for	4
1 (b)	Subject to jurisdiction of Commission	1
15 (b)	Informality in hearing, etc., not to affect validity of order, etc.	15
	Information:	
17 (c)	Available to State commissions	16
5 (b), 6 (a), 8 (b), (c), 14 (a).	Commission may conduct investigations to obtain	5, 6, 7, 8, 12
10 (a)	Commission may require, as to assets and liabilities, capitalization, etc	10
11 (a), (b)	Commission shall assemble, etc., regarding State compacts	10, 11
11 (b)	Commission shall make public information regarding state compacts	11
6 (b)	Natural-gas company shall furnish, as to cost of additions, etc	6
8 (b)	Not to be divulged by member, etc., of Commission	8
14 (a)	Publication of, obtained in investigations, by Commission authorized	12
14 (d)	Willfully to fail to furnish, in obedience to a subpena, penal offense	13
10 (b)	Willfully to hinder, etc., filing of, is unlawful	10
20 (a), 22	Injunction to enjoin violation of act, etc. (See Courts and court proceedings.)	19, 20
1 (a), 7 (c)	Intention of Congress	1, 7
7 (a)	Interconnection of facilities, Commission may order, except where it would impair ability to render adequate service	6
	Interstate Commerce:	
2 (7)	Defined	2
1 (a), (b)	Jurisdiction of Commission as to	1
1 (b)	Sale of natural gas in, for resale for ultimate public consumption, jurisdiction of Commission as to	1
	Interstate transportation of natural gas:	
1 (a)	Affected with a public interest	1
1 (b)	Jurisdiction of Commission as to	1
	Interstate sale of natural gas for resale:	
1 (a)	Affected with a public interest	1
7 (c)	Intention of Congress as to rates for	7
1 (b), 4(a)	Jurisdiction of Commission as to	1, 3
6 (b)	Inventory of property, to be filed with Commission	6
	Investigations:	
14 (a)	Any person may file a statement concerning subject matter of	12

Section		Page
14 (a)	As basis for recommending legislation	12
20 (c)	Attorneys may be employed to aid Commission in	19
6 (a)	Authorized for rate making purposes	6
5 (b), 6 (a) 8, 14 (a).	Commission may order	5, 6, 7, 8, 12
5 (b), 17 (b)	Commission to cooperate with State commissions	5, 16
14 (c), (d), (e), (h).	Commission empowered to compel attendance, etc., of witnesses	12, 13, 14
15 (b)	Governed by rules of practice and procedure adopted by Commission	15
15 (b)	Informality in, shall not affect validity of order, etc	15
14 (a)	Information concerning, Commission may publish	12
6 (a)	Of actual legitimate cost of property, depreciation, fair value, and other facts	6
5 (b)	Of cost of production or transportation of natural gas	5
14 (a)	Regarding violations of act, orders, etc	12
15 (b)	Technical rules of evidence, not applicable	15
5 (b)	Regarding cost of production or transportation of natural gas where Commission has no authority to establish a rate	5
14 (d)	Willful failure to attend, etc., in obedience to subpena of Commission, penal offense	13
	Joint boards:	
17 (a)	Action by, force and effect of	16
17 (a)	Allowance of expenses for members	16
17 (a)	Appointment of members of	16
17 (a)	Composition of	16
17 (a)	Powers, duties, and liabilities	16
17 (a)	Proceedings before	16
17 (a)	Revocation of reference to	16
17 (b)	Joint hearings with state commissions, authorized	16
2 (2)	Joint-stock company, included in definition of "corporation"	2
22	Judicial proceedings (*See* Court proceedings.): Costs in, not to be assessed against Commission	21
	Jurisdiction:	
1 (a), (b), 7 (c).	General intent of Congress as to	1, 7
1 (b)	None, over any sales of natural gas other than in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial or any other use	1
1 (b)	None, over any transportation of natural gas other than in interstate commerce	1
1 (b)	None, over local distribution of natural gas or facilities used therefor or the production or gathering of natural gas	1
7 (b)	Over abandonment of facilities	6
6 (b), 7 (c)	Over additional facilities	6, 7
6 (b), 8 (a), (b), (c), 9 (a), (b), 10 (a), (b), 16.	Over accounts	6, 7, 8, 9, 10, 15

Section		Page
6 (a), (b)	Over ascertainment of actual legitimate cost	6
5 (b)	Over ascertainment of cost of production or transportation of natural gas by natural-gas companies where no authority to fix rate	5
6 (b), 7 (c)	Over construction of new facilities	6, 7
3	Over exportation and importation of natural gas	2
6 (b), 7 (a), (c).	Over extension of facilities	6, 7
7 (a)	Over improvement of facilities	6
7 (a)	Over physical interconnections	6
4, 5 (a), 6	Over rates and changes in rates	3, 4, 5, 6
4, 5 (a)	Over reasonableness of rates, etc	3, 4, 5
1 (b)	Over sales of natural gas in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and over natural-gas companies engaged in such sale	1
1 (b)	Over transportation of natural gas in interstate commerce and over natural-gas companies engaged in such transportation	1
5 (a)	Just and reasonable rate	5
21 (a), (b)	Knowing and willful violations of act, rules, etc	20
14 (b)	Lease and royalty agreements with respect to gas reserves, filing may be required	12
1 (a), 7 (c)	Legislative intent	1, 7
1 (b)	Local distribution of natural gas or facilities therefor, act not applicable to	1
20 (b)	Mandamus, District courts of United States, etc., may issue, on application of Commission	19
8 (b)	Maps, furnishing of, by natural-gas company may be required	8
7 (c)	Market already served by another natural-gas company, certificate of public convenience and necessity required for construction or extension facilities into, etc	7
7 (c)	Market demands increased, in territory where natural-gas company operates, may be supplied by enlarged or extended facilities without certificate of public convenience and necessity	7
	Memoranda. (*See* Accounts.)	
14 (d)	Misdemeanor, for failure to obey subpena (*See* Penal provisions.)	13
	Modify:	
19 (b)	Power of appellate court to modify order of Commission	18
19 (b)	Power of Commission to modify its findings by reason of additional evidence	18
	Municipality:	
2 (3)	Defined	2
14 (a)	Information from Commission investigations to be made available to	12
4 (e)	May file complaint as to lawfulness of new rate, etc	4
5 (a)	May file complaint that any rate, etc., is unjust, unreasonable, etc	5
13	May file complaint of any violation of act	11

Section		Page
	Natural gas:	
1 (a)	Business of transporting and selling in interstate commerce for ultimate distribution to public, affected with public interest	1
2 (δ)	Defined	1
3	Exportation and importation of	2
1 (b)	Gathering of, act not applicable to	1
1 (b)	Local distribution of, and facilities used therefor, act not applicable thereto	1
1 (b)	Production of, act not applicable to	1
7 (c)	Sale of, in market already served by another natural-gas company	7
1 (b)	Transportation and sale for resale of, in interstate commerce, act applies to	1
1 (a)	Transportation and sale of, for ultimate distribution to the public is affected with a public interest	1
	(*See* Jurisdiction, rates, natural-gas company, etc.)	
	Natural-gas company:	
7 (b)	Abandonments of facilities by	6
8 (b), (c)	Accounts, etc., Commission shall have access to, duty to furnish information on	8
8 (a)	Accounts, etc., to be kept and preserved	7
8 (a)	Accounts, etc., system of, Commission may prescribe	8
6 (a)	Actual legitimate cost of property of	6
8 (a)	Commission may classify	8
2 (6)	Defined	2
9 (a)	Depreciation accounts, may be required by Commission	9
9 (a)	Depreciation rates of, Commission may fix, etc	9
6 (b), 7 (a), (c).	Extension of facilities by	6, 7
14 (b)	Gas reserves, adequacy of, may be determined by Commission	12
5 (b)	Investigation of cost of production or transportation of natural gas by, where Commission has no authority to fix rate	5
6 (b), 7 (a)	Improvement of facilities by	6
1 (b)	Jurisdiction of Commission over	1
8 (c)	Persons controlling, accounts, etc., of, subject to examination on order of Commission	8
7 (a)	Physical interconnection of facilities by	6
4 (a), (b), (c), (d), (e) 5 (a).	Rates, etc., of	3, 4, 5
10 (a)	To file annual, periodic, special reports	10
12	Unlawful for officer or director of, to benefit by security issue of, or pay dividends out of, capital	11
6 (b), 7 (a), (c).	New construction by natural-gas company	6, 7
	Notice:	
4 (d)	Of changes in rates, charges, etc., requirements as to	3, 4
13	Of complaint to natural-gas company	11
8 (a)	Of hearing on entry, charge or credit in accounts	8
7 (c)	Of hearing on application for certificate of public convenience and necessity	7

Section		Page
4 (e)	Of hearing on lawfulness, etc., of new schedules of rates, charges, etc	4
7 (a)	Of order to extend or improve facilities, etc	6
14 (c)	Of taking deposition	13
9 (b)	To State commission before prescribing rules, etc., as to accounts, depreciation, etc	9
	Oaths:	
14 (c)	May be administered by member of Commission or by officer designated by it	12
14 (c)	On deposition, any person authorized to administer	13
12	Officer of natural-gas company, unlawful for same to benefit by security issue of natural-gas company or pay dividend from capital	11
14 (d), 21 (a), (b).	Offenses violative of act, etc	13, 20
18	Officers, Commission has authority to appoint	17
	Operating expenses:	
9 (a)	Charges for depreciation to, not to be made except as prescribed by Commission	9
14 (b)	Delay rentals, etc., inclusion in	12
	Orders:	
16	Commission has power to make, issue, etc	15
19 (a), (b), (c).	Court review of	17, 18, 19
5 (a)	Determining, etc., just and reasonable rates, charges, etc	5
16	Effective date of	15
7 (a)	Extension or improvement of facilities	65
19 (b)	Findings of fact by Commission in, conclusive if supported by substantial evidence	1
9 (a)	Fixing rates of depreciation, etc	8
19 (b)	Jurisdiction to affirm, etc., in Circuit Courts of Appeals	19
4 (d), (e), 5 (a).	Making changes in existing rates	3, 4, 8
3	Orders on application for authorization to export or import natural gas	2
19 (c)	Rehearing on, application for, does not stay	19
19 (c)	Review of, petition for, does not stay	19
8 (c)	To examine accounts of persons controlling natural-gas companies	8
20 (a)	Violation of, Commission may sue to enjoin	19
14 (a)	Violation of, investigation of	12
21 (b)	Violation of, penalties	20
2 (2)	Organized group of persons, whether incorporated or not, within definition of "corporation"	2
6 (b)	Original cost of property, statement to be filed	6
15 (a)	Participation in proceedings by interested parties, etc	15
2 (2)	Partnership, included in definition of "corporation"	2
19 (a), (b)	Party, aggrieved, may apply for rehearing, review of order	17, 18
	Penalties:	
14 (d)	For willful failure to attend, etc., in obedience to subpena	13
21 (a), (b)	For violation of act, orders, etc	20
10 (a)	Periodic reports of natural-gas companies to Commission	10
14 (b)	Perjury in testifying in Commission proceeding punishable	14

Section		Page
	Persons:	
19 (a), (b)	Aggrieved by Commission order may apply for rehearing and appeal	17, 18
2 (1)	Defined	2
16	Classification of, by rules and regulations	15
14 (a)	Commission may permit filing information by, relating to investigations	12
8 (c)	Controlling natural-gas companies, accounts, etc., of, subject to examination on order of Commission	8
14 (d)	Court may order, to appear before Commission	13
14 (d)	Guilty of misdemeanor for failure to obey subpena	13
14 (a)	Investigation of violation of act, order, etc., by	12
14 (h)	Self-incrimination of	14
14 (d)	Service to process on, in proceeding to enforce subpena	13
	Petition:	
13	Complaint to Commission to be made by	11
19 (a), (b), (c).	For rehearing	17, 18, 19
19 (a), (b)	For review of Commission order	17, 18
7 (a)	Physical interconnection of facilities	6
2 (3)	Political subdivision or agency of State, included in definition of "municipality"	2
1 (a), 7 (c)	Policy, declaration of	1, 7
15 (a), (b)	Practice and procedure before Commission, rules and regulations as to	15
	Practices:	
5 (a)	Affecting rates, charges, etc., just and reasonable above, Commission may determine, etc	5
4 (c)	Affecting rates, charges, etc., to be filed and kept open for public inspection	3
14 (a)	Involving violation of act, etc., may be investigated by Commission	12
4 (b), 5 (a)	Preference or advantage, undue, forbidden	3, 5
4 (c)	Preference in hearing and decision by Commission on increase of rates	5
4 (b), 5 (a)	Preferences, undue, forbidden, etc	3, 5
11 (c)	President may direct services and facilities of other Government agencies to be made available to Commission	11
	Proceedings:	
17 (a)	Before joint boards	16
15 (a)	Commissioner or designated officer empowered to hold	14
22	Costs in court, not assessable against Commission	21
15 (b)	Informality in, not to affect order, etc	15
	(*See* Hearings.)	
14 (d), 22	Process (*See* Notice.): Service of	13, 20
	Public:	
11 (a), (b)	Commission to make information, regarding state compacts	10, 11
4 (d)	Notice to	3
14 (a)	Publication by Commission of facts developed by investigation	12
7 (b), (c)	Public convenience and necessity	6, 7

Section		Page
	Public inspection:	
4 (c), (d)	Rate schedules to be kept open to	3
16	Rules and regulations of Commission to be open to	15
	Public interest:	
3	Exportation and importation of natural gas permitted if consistent with	2
1 (a)	Federal regulation of matters relating to transportation of natural gas and the sale thereof in interstate and foreign commerce necessary in	1
7 (a)	Improvement and extension of facilities, etc., may be ordered by Commission if necessary or desirable in	6
7 (c)	Maintenance of adequate service in	7
	Rates:	
4 (e)	Burden of proof in cases involving increase in rates	5
4 (b)	Discrimination prohibited	3
4 (d)	Changes in, must be on notice to Commission and public unless otherwise ordered by Commission	3
4 (c)	Classifications, practices, etc., affecting, of natural-gas companies, to be filed and kept open for inspection	3
7 (c)	Congressional intention as to, in connection with certificate of public convenience and necessity	7
4 (c)	Contracts of natural-gas companies affecting, to be filed and kept open for inspection	3
5 (a)	Decrease in, Commission may order, if existing rates unjust, etc	5
9 (a), (b)	Depreciation	9
4 (d), (e), 5 (a).	Increase in	3, 4, 5
4 (e)	Increase in, Commission may order bond furnished to refund amounts ordered	4
4 (e)	Increase in, natural-gas company to keep accurate accounts of amounts received by reason of	4
6 (a)	Investigation of cost, depreciation, fair value for purpose of making	6
5 (a)	Just and reasonable, jurisdiction of Commission to fix, etc	5
4 (e)	Preference to cases involving increase in rates	5
4 (e)	Refund of increase in	5
4 (c)	Regulations, etc., of natural-gas company affecting, to be filed and kept open for public inspection	3
4 (a)	Shall be just and reasonable	3
4 (e)	Suspension by Commission of increase in, not to be made in case sale of natural gas for resale for industrial use only	4
4 (a)	Unlawful, if not just and reasonable	3
4 (b)	Unreasonable differences in and other preference and discrimination prohibited	3
2 (2)	Receiver, included in definition of "corporation"	2
9 (b)	Recommendations by State commissions as to rules and regulations as to accounts, etc	9
11 (a), (b)	Recommendations of Commission as to further legislation as to State compact, etc	10, 11
19 (b)	Record on appeal from Commission order	18

Section		Page
14 (c)	Records (*See* Accounts.): Commission may subpena	13
8 (b), (c)	Commission may examine	8
14 (d)	Court may order production of, etc., in case of contumacy or refusal to obey subpena	13
15 (a)	Of hearings shall be kept	14
17 (b)	Of State commissions may be availed of by Commission	16
11 (c)	Of executive departments and other agencies of the Government to be availed of by Commission	11
14 (d)	Refusal to produce in answer to subpena, a misdemeanor	13
10 (b)	Willful obstruction to making, filing, or keeping of, unlawful	10
4 (e)	Refunds of increased rates and charges	5
	Regulation:	
1 (a)	Federal, in matters relating to transportation and sale of natural gas in interstate and foreign commerce is necessary in the public interest	1
1 (b)	Federal, applies to transportation, sale for resale for public consumption, of natural gas, in interstate commerce, and to natural-gas companies so engaged	1
1 (b)	Federal, does not apply to local distribution, facilities for same, or to production or gathering of natural gas	1
3	Of exportation and importation	2
4, 5 (a)	Of rates and charges, etc	3, 4, 5
9 (a), (b)	Of rates of depreciation	9
8 (a)	Of system of accounts, records, etc	7, 8
	Regulations. (*See* Rules and regulations.)	
	Rehearing:	
19 (a)	Application for, contents of	17
19 (a)	Application for, effect on, of Commission's failure to act on within 30 days	17
19 (c)	Filing of application for, does not stay order	19
19 (a)	Time limit, to apply for	17
19 (a)	Who may apply for	17
1 (a)	Report of Federal Trade Commission pursuant to S. Res. 63 (70th Cong., 1st sess.)	1
	Reports:	
10 (a)	Annual, periodic, special, filing of, etc	10
11 (a), (b)	On State compacts, Commission to make to Congress	10, 11
10 (b)	Willful obstruction to making, filing, etc. unlawful	10
15 (a)	Representative of Commission may conduct hearings	14
15 (a)	Representative of interested consumers or security holders may be admitted as party in Commission proceedings	15
16	Rescission of orders, etc., by Commission	15
	Review of orders:	
19 (a)	Application for rehearing to precede petition for	17
19 (b)	Commission to certify and file transcript of record with court	18
19 (b)	Decree or judgment of court on, final, subject to review in Supreme Court of the United States	18
19 (c)	Filing petition for, does not stay order	19
19 (b)	Findings of fact by Commission, conclusive if supported by substantial evidence	18
19 (b)	Leave of court to adduce additional evidence required	18

Section		Page
19 (b)	Manner of procuring review by Supreme Court of the United States	18
19 (b)	Petition for	18
19 (c)	Petition for, does not stay Commission order unless specifically ordered by court	19
19 (b)	Petition for, to be served on any member of Commission	18
19 (b)	Time limit for applying for	18
19 (b)	Venue in proceedings for	18
17 (a)	Revocation of reference to Joint Board	16
14 (b)	Royalty contracts in connection with gas reserves	12
	Rules and regulations:	
9 (b)	Accounting, etc., State commissions to be notified and heard before Commission prescribes	9
8 (a)	Accounting, etc., Commission may prescribe	7, 8
4 (c)	Affecting rates, charges, etc	3
4 (a)	Applicable to rates and charges	3
17 (b)	As to joint hearings with any State commission	16
16	Classifications of matters and persons by	15
16	Commission has power to make, issue, etc., to carry out act	15
15 (b)	Conduct of hearings, Commission may prescribe for	15
9 (a)	Depreciation accounts, for	9
16	Effective date of	15
10 (a)	Filing reports, for	10
15 (b)	For hearings	15
15 (a)	For intervention in Commission proceedings	15
20 (b)	Mandamus to compel compliance with	19
7 (c)	On application for certificate of public convenience and necessity	7
16	Open for public inspection	15
20 (a)	Violations of, may be enjoined	19
14 (a)	Violations of, investigations to determine	12
21 (b)	Violations of, penalties for	20
15 (b)	Rules of evidence, technical, need not be applied in hearings	15
1 (b)	Sale of natural gas in interstate commerce for resale, jurisdiction of Commission	1
7 (c)	Sale of natural gas in a market already being served by another natural-gas company	7
	Schedules:	
5 (a)	Commission cannot order increase in rate unless in accord with filed	5
4 (d), (e)	New rates, hearing on, when effective, suspension of, etc	3, 4
4 (c)	Of rate, charges, etc., to be filed, open for public inspection	3
	(*See* Rates.)	
12	Securities: Officer or director of natural-gas company dealing in, of natural-gas company, unlawful	11
16 (a)	Security holders, representative of, may be admitted as a party in Commission proceeding	15
14 (b)	Self-incrimination, privilege against	14
23	Separability of provisions of act	21
	Services:	
7 (b)	Abandonment of, permission of Commission required	6

Section		Page
4 (d)	Change in	3
17 (b)	Commission may avail itself of State commission	16
4 (e), 5 (a), 13.	Complaints as to	4, 5, 13
4 (c)	Contracts, etc., of natural-gas company affecting, to be filed and kept open for public inspection	3
4 (b)	Discrimination, undue preference, etc., in, forbidden	3
7 (a)	Impairment of, by enlargement of transportation facilities and physical interconnections not to be ordered by Commission	6
17 (c)	Of expert witnesses, may be made available to State commissions	16
	State:	
2 (4)	Defined	2
8 (a)	Laws of, concerning accounts, etc., natural-gas company not relieved from compliance with	8
	State Commission:	
9 (b)	Commission shall notify, before prescribing rules and regulations for accounts, etc	9
17 (b)	Cooperation, services, records and facilities of, may be availed of by Commission	16
2 (8)	Defined	2
14 (a), 17 (c).	Information and reports of Commission, available to	12, 16
17 (b)	Joint hearings and conferences with, authorized	16
15 (a)	May be admitted as intervener	14
4 (e), 5 (a), 13.	May be complainant before Commission	4, 5, 11
5 (b)	May request investigation into cost of production or transportation	5
9 (a)	Rates, etc., of depreciation, jurisdiction over not limited by Federal jurisdiction	9
17 (c)	Use of Commission's experts as witnesses permitted	17
9 (b)	Views on rules and regulations for accounts to be considered	9
11 (a), (b)	State compacts, Commission to report on to Congress	10, 11
19 (c)	Stay of order of Commission	19
14 (f)	Stipulation as to person before whom deposition may be taken in a foreign country	14
	Subpena (Subpena duces tecum, etc.):	
14 (c), (d), (e).	Commission may issue, etc	12, 13, 14
14 (d)	Refusal to obey, a misdemeanor	13
3	Supplemental orders	3
19 (b)	Supreme Court, review of decrees and judgments by certiorari or certification	18
14 (b)	Surplus, inclusion in of delay rentals, etc	12
4 (e)	Suspension by Commission of schedule, rate, charge, etc., in new schedule	4
4 (e)	Suspension by Commission of rate, etc., for sale of natural gas for resale	4
8 (a)	Suspension of charge or credit	8

Section		Page
8 (a)	System of accounts to be kept by natural-gas companies may be prescribed by Commission	8
16	Technical terms may be defined by Commission	15
2 (4)	Territory of United States, organized, included in definition of "State"	2
19 (b)	Testimony (*See* Witnesses, deposition.): Transcript of record filed with court	18
1 (b)	Transportation of natural gas in interstate commerce, jurisdiction of Commission	1
4 (b)	Undue preference, etc., by natural-gas company prohibited	3
17 (c)	Valuation (*See* Ascertainment of cost of property, Fair value, etc.): Experts available to State Commissions as witnesses	17
	Venue:	
19 (b)	Court review of orders of Commission	17, 18
22	Generally, as to offenses and enforcement of act, orders, regulations, etc	20
20 (a)	Injunction	19
20 (b)	Mandamus	19
14 (d)	To proceed against contumacious witness, etc	13
	Violations:	
20 (a), 21 (a), (b), 22	Criminal proceedings for	19, 20
20 (a)	Of act, etc., Commission may sue to enjoin	19
21 (a)	Willful and knowing of act, penal offense	20
21 (b)	Willful and knowing, of Commission order, rule, etc., penal offense	20
10 (b)	Willful hindrance, delay or obstruction of making, etc., of information, etc., required by act, etc., unlawful	10
	Witnesses:	
14 (c)	Attendance of	12
14 (d)	Contumacy, etc., of	13
14 (c), (g)	Fees of	13, 14
14 (h)	Immunity of	14
14 (h)	Incrimination of, by testimony	14
14 (d)	Order of court compelling attendance, testimony, etc	13
17 (c)	Rate, valuation, experts available to States as	17
14 (d)	Refusal to appear, etc., in answer to subpena, misdemeanor	13
14 (c)	Subpena for	12
14 (e)	Testimony of, by deposition	13